

**CONTRACT NO: 1430-14172**

**FOR**

**COUNTY-WIDE BOTTLED DRINKING WATER, DISTILLED WATER & WATER  
COOLER RENTALS**

**BETWEEN**



**COOK COUNTY GOVERNMENT  
(COUNTY-WIDE)**

**AND**

**NESTLE WATERS NORTH AMERICA, INC. d/b/a NESTLE PURE LIFE  
(Based on City of Chicago Contract No. 30043)**

# PROFESSIONAL SERVICES AGREEMENT

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Economic Disclosure Statement (Including MBE/WBE participation plan)

**List of Exhibits**

Exhibit 1	Scope of Services and Price Proposal
Exhibit 2	City of Chicago Contract No. 30043
Exhibit 3	Evidence of Insurance

**AGREEMENT**

This Agreement is made and entered into by and between the County of Cook, a public body corporate of the State of Illinois, hereinafter referred to as "County" and Nestle Waters North America, Inc. d/b/a Nestle Pure Life, doing business as a corporation of the State of Illinois hereinafter referred to as "Contractor".

**BACKGROUND**

**Whereas**, the County, pursuant to Section 34-140 (the "Reference Contract Ordinance") of the Cook County Procurement Code, states: "If a governmental agency has awarded a contract through a competitive method for the same or similar supplies, equipment, goods or services as that sought by the County, the Procurement may be made from that vendor at a price or rate at least as favorable as that obtained by that government agency without utilizing a competitive procurement method set forth in this Procurement Code;" and

**Whereas**, the City of Chicago solicited a formal Invitation for Sealed Bid process for Bottled Drinking Water, Distilled Water & Water Cooler Rentals, and the Contractor was identified as the lowest responsive and responsible bidder as determined by the bid price for the goods and services; and

**Whereas**, the City of Chicago entered into a contract on June 3, 2014 for the provision of goods and services by the Contractor for the County relative to Bottled Drinking Water, Distilled Water & Water Cooler Rentals; and

**Whereas**, the County wishes to leverage the procurement efforts of the City of Chicago; and

**Whereas**, this contract made and entered into by and between the County of Cook, a public body corporate of the State of Illinois, herein after the "County" and Nestle Waters North America, Inc. d/b/a Nestle Pure Life herein after the "Contractor"; and

**Whereas**, the County desires certain similar goods and services of the Contractor; and

**Whereas**, County Offices, Departments, and Agencies may utilize this agreement for specific contracted procurement efforts; and

**Whereas**, the Contractor agrees to provide to the County Bottled Drinking Water, Distilled Water & Water Cooler Rentals, incorporated as Exhibit 1, Scope of Services and Price Proposal; and

**Whereas,** the Contractor warrants that it is ready, willing and able to deliver these services set forth in Exhibit 1, Scope of Services and Price Proposal, all on pricing and payment terms equivalent to or more favorable to the County than those contained in the City of Chicago Contract No. 30043 as set forth in Exhibit 1, Scope of Services and Price Proposal, and incorporated herein by reference; and

**Whereas,** this Contract shall be effective February 13, 2015 through February 12, 2016 with the option to renew for one (1) additional one (1) year period after award by the County and after proper execution of the Contract Documents; and

**Whereas,** Payment shall be as follows:

In no case shall such charges exceed the amount of **\$105,255.30**. Invoices in triplicate on County Invoice Form 29A shall be submitted by the Contractor to the Using Department when requesting payment. The County shall have the right to examine the books of the Contractor for the purpose of auditing the same with reference to all charges made to the County.

In the event the Contractor receives payment under the Contract, reimbursement for which is later disallowed by the County, the Contractor shall promptly refund the disallowed amount to the County on request, or at the County's option, the County may credit the amount disallowed from the next payment due or to become due to the Contractor under any contract with the County; and

**Whereas,** the County and the Contractor agree to the Terms and Conditions as stated in the City of Chicago contract, hereto incorporated by reference as Exhibit 2, City of Chicago Contract No. 30043, all as may be applicable to the County; and

**Whereas,** the County General Conditions are incorporated and attached, and this Contract incorporates and is subject to the provisions attached hereto as General Conditions, and is incorporated herein by this reference; Notwithstanding such incorporation, none of the terms set forth in Exhibit 2 which conflict with the express terms of this Contract or its General Conditions shall be deemed or construed to supersede the terms of this Contract or its General Conditions; and

**NOW, THEREFORE,** in consideration of the mutual promises and covenants herein contained, the sufficiency of which is acknowledged by each of the Parties, the Contractor and the County agree and the information set forth is incorporated by reference herein.

## **INCORPORATION OF BACKGROUND INFORMATION**

The Background Information set forth above is incorporated and made a part of this Agreement by reference.

## **INCORPORATION OF EXHIBITS**

The following attached Exhibits are made a part of this Agreement:

- Exhibit 1      Scope of Services and Price Proposal
- Exhibit 2      City of Chicago Contract No. 30043
- Exhibit 3      Evidence of Insurance

## **GENERAL CONDITIONS**

### **GC-01      SUBCONTRACTING      OR      ASSIGNMENT      OF      CONTRACT      OR      CONTRACT FUNDS**

Once awarded, this Contract shall not be subcontracted or assigned, in whole or in part, without the advance written approval of the Chief Procurement Officer, which approval shall be granted or withheld at the sole discretion of the Chief Procurement Officer. In no case, however, shall such approval relieve the Consultant from its obligations or change the terms of the Contract. The Consultant shall not transfer or assign any Contract funds or any interest therein due or to become due without the advance written approval of the Chief Procurement Officer. The unauthorized subcontracting or assignment of the Contract, in whole or in part, or the unauthorized transfer or assignment of any Contract funds, either in whole or in part, or any interest therein, which shall be due or are to become due the Consultant shall have no effect on the County and are null and void.

Prior to the commencement of the Contract, the Consultant shall identify in writing to the Chief Procurement Officer the any and all Subcontractor it intends to use in the performance of the Contract. The Chief Procurement Officer shall have the right to disapprove any Subcontractor. Identification of Subcontractor to the Chief Procurement Officer shall be in addition to any communications with County offices other than the Chief Procurement Officer. All Subcontracts shall be subject to the terms of this Contract. Consultant shall incorporate into all subcontracts all of the provisions of the Contract which affect such subcontract. Copies of subcontracts shall be provided to the Chief Procurement Officer upon request.

The Consultant must disclose the name and business address of each Subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Consultant has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Consultant is not required to disclose employees who are paid or estimated to be paid. The Consultant is not required to disclose employees who are paid solely through the Consultant's regular payroll. "Lobbyist" means any person or entity who undertakes to influence any legislation or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2), himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action. If the Consultant is uncertain whether a disclosure is required under this Section, the Consultant must either ask the County, whether disclosure is required or make the disclosure.

The County reserves the right to prohibit any person from entering any County facility for any reason. All Consultants and Subcontractor of the Consultant shall be accountable to the Director of the Using Department or his designee while on any County property and shall abide by all rules and regulations imposed by the County.

#### **GC-02 PERSONNEL**

The quality, experience and availability of personnel employed by the Consultant is of the essence. The Consultant shall provide the County with a list of all key personnel to be used on the project and their designated assignment. The list shall include the qualifications of each person named. The County may at any time request, in writing, the Consultant to remove any of the Consultant's assigned personnel for cause and forthwith furnish to the County other acceptable personnel with thirty (30) days of notification. Notwithstanding the County's approval of Consultant's personnel, the Consultant shall be fully responsible to County for all work performed pursuant to this Contract by Consultant's employees, Subcontractor or others who may be retained by the Consultant with the approval of the County.

#### **GC-03 INSURANCE REQUIREMENTS**

- 1) The Consultant shall require all policies of insurance that are in any way related to the work and are secured and maintained by Consultant and all tiers of Subcontractor to include clauses providing that each underwriter shall waive all of its rights of recovery, under subrogation or otherwise, against Cook County, Board of Commissioners and employees of the County.
- 2) The Consultant shall waive all rights of recovery against Cook County, Board of Commissioners, employees of the County and other Consultants and Subcontractor which Consultant may have or acquired because of deductible clauses in or inadequacy of limits of any policies of insurance that are in any way related to the work and that are secured and maintained by Consultant.

- 3) The Consultant shall require all tiers of Subcontractor to waive the rights of recovery against Cook County and all tiers of Subcontractor.

**Insurance Requirements of the Consultant**

Prior to the effective date of this Contract, the Contractor, at its cost, shall secure and maintain at all times, unless specified otherwise, until completion of the term of this Contract the insurance specified below. **Contractor must also satisfy the insurance requirements of the Public Building Commission/MB Real Estate Services for the Richard J Daley Center listed in 8.4.**

Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from its operations under this Contract.

Contractor shall require all Subcontractors to provide the insurance required in this Agreement, or Contractor may provide the coverages for Subcontractors. The Cook County Department of Risk Management maintains the right to modify, delete, alter or change these requirements.

**1. Coverages**

**(a) Workers Compensation Insurance**

Workers' Compensation shall be in accordance with the laws of the State of Illinois or any other applicable jurisdiction.

The Workers Compensation policy shall also include the following provisions:

- (1) Employers' Liability coverage with a limit of  
\$500,000 each Accident  
\$500,000 each Employee  
\$500,000 Policy Limit for Disease

**(b) Commercial General Liability Insurance**

The Commercial General Liability shall be on an occurrence form basis (ISO Form CG 0001 or equivalent) to cover bodily injury, personal injury and property damage.

Each Occurrence	\$ 1,000,000
General Aggregate per Project or per Location	\$ 2,000,000
Completed Operations Aggregate	\$ 2,000,000



The General Liability policy shall include the following coverages:

- (a) All premises and operations;
- (b) Contractual Liability;
- (c) Products/Completed Operations;
- (d) Severability of interest/separation of insureds clause

(c) **Comprehensive Automobile Liability Insurance**

Contractor shall secure Automobile Liability Insurance for bodily injury and property damage arising from the Ownership, maintenance or use of owned, hired and non-owned vehicles with a limit no less than \$1,000,000 per accident.

(d) **Excess/Umbrella Liability Insurance**

Such policy shall be excess over the Commercial General Liability, Automobile Liability, and Employer's Liability with limits not less than the following amounts:

Each Occurrence:	\$5,000,000
General Aggregate	\$5,000,000

(e) **Property Insurance**

Contractor is responsible for all tools, equipment, materials or supplies owned rented, or used by Contractor.

2. **Additional requirements**

(a) **Additional Insured**

The required insurance policies, with the exception of the Workers Compensation shall name Cook County, its officials, employees and agents as additional insureds with respect to operations performed on a primary and non-contributory basis. Any insurance or self-insurance maintained by Cook County shall be excess of the Contractor's insurance and shall not contribute with it. The full policy limits and scope of protection shall apply to Cook County as an additional insured even if they exceed the minimum insurance limits specified above.

(b) **Qualification of Insurers**

All insurance companies providing coverage shall be licensed or approved by the Department of Insurance, State of Illinois, and shall have a financial rating no lower than (A-) VII as listed in A.M. Best's Key Rating Guide, current edition or interim report. Companies with ratings lower than (A-) VII will be acceptable only upon written consent of the Cook County Department of Risk Management. The insurance limits required herein may be satisfied by a combination of primary, umbrella and/or excess liability insurance policies.

(c) **Insurance Notices**

Contractor shall provide the Office of the Chief Procurement Officer with thirty (30) days advance written notice in the event any required insurance will be cancelled, materially reduced or non-renewed. Contractor shall secure replacement coverage to comply with the stated insurance requirements and provide new certificates of insurance to the Office of the Chief Procurement Officer.

Prior to the date on which Contractor commences performance of its part of the work, Contractor shall furnish to the Office of the Chief Procurement Officer certificates of insurance maintained by Contractor. The receipt of any certificate of insurance does not constitute agreement by the County that the insurance requirements have been fully met or that the insurance policies indicated on the certificate of insurance are in compliance with insurance required above.

In no event shall any failure of the County to receive certificates of insurance required hereof or to demand receipt of such Certificates of Insurance be construed as a waiver of Contractor's obligations to obtain insurance pursuant to these insurance requirements.

(d) **Waiver of Subrogation Endorsements**

All insurance policies must contain a Waiver of Subrogation Endorsement in favor of Cook County.

**MB REAL ESTATE**  
**RICHARD J. DALEY CENTER**  
**50 WEST WASHINGTON**  
**CHICAGO, IL 60602**  
**INSURANCE REQUIREMENTS**  
**POLICY LIMITS – MINIMUM LIMITS**

## COMMERCIAL GENERAL LIABILITY INSURANCE

### Combined Single Limit

Bodily Injury & Property Damage	\$1,000,000.00 Each Occurrence
	\$2,000,000.00 General Aggregate

**General Aggregate Limit must apply per Project or per Location.**

Products/Completed Operations	\$1,000,000.00 Each Occurrence
	\$2,000,000.00 Aggregate Limit

Personal Injury & Advertising Limit	\$1,000,000.00
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## UMBRELLA LIABILITY INSURANCE

Umbrella Liability Policy	\$5,000,000.00
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## WORKERS' COMPENSATIONS

**for Coverage A (statutory limits) and Coverage B, Employer's Liability with limits of:**

**Bodily Injury by Accident for Each Accident \$500,000.00**

Bodily Injury by Disease for Policy Limit	\$500,000.00
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**Bodily Injury by Disease for Each Employee \$500,000.00**

## COMPREHENSIVE AUTOMOBILE LIABILITY

**Insurance which shall include all owned, leased, hired or non-owned vehicles with limits of liability as follows:**

Bodily Injury and Property Damage	\$1,000,000.00
Each Occurrence	\$1,000,000.00

**ADDITIONAL INSURED**s with respects to the General Liability and Auto Liability Coverage, Umbrella follows form:

Public Building Commission of Chicago  
MB Real Estate Services INC

**CANCELLATION POLICY:** Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**CERTIFICATE HOLDER**  
MB REAL Estate Services INC  
1203 Richard J. Daley Center  
50 West Washington Street, Chicago, IL 60602  
312 603 7980

**FAX CERTIFICATE OF INSURANCE TO: 312 603 5800**

**GC-04 INSPECTION AND RESPONSIBILITY**

At any and at all times during the term of the Contract and at any location where the Contract is performed, the County shall have a right to inspect any Deliverables provided in carrying out this Contract. The Consultant shall be solely responsible for the quality and standards of all Deliverables furnished under this Contract. Deliverables may be rejected by the Chief Procurement Officer and/or the Director of the Using Department if they fail to meet Contract requirements or are provided in a manner which does not meet Contract requirements. In the event of such rejection, Deliverables shall be replaced and/or re-performed by the Consultant promptly and at no additional cost to the County. Any Deliverables rejected shall be removed within a reasonable time from the premises of the County at the entire expense of the Consultant, after notice has been given by the County to the Consultant that such Deliverables have been rejected.

**GC-05 INDEMNIFICATION**

The Consultant covenants and agrees to indemnify and save harmless the County and its commissioners, officials, employees, agents and representatives, and their respective heirs, successors and assigns, from and against any and all costs, expenses, attorney's fees, losses, damages and liabilities incurred or suffered directly or indirectly from or attributable to any claims arising out of or incident to the performance or nonperformance of the Contract by the Consultant, or the acts or omissions of the officers, agents, employees, Consultants, Subcontractor, licensees or invitees of the Consultant. The Consultant expressly understands and agrees that any Performance Bond or insurance protection required of the Consultant, or otherwise provided by the Consultant, shall in no way limit the responsibility to indemnify the County as hereinabove provided.

**GC-06 PAYMENT**

All invoices submitted by the Consultant shall be in accordance with the cost provisions contained in the Contract Documents and shall contain a detailed description of the Deliverables for which payment is requested. All invoices shall reflect the amounts invoiced by and the amounts paid to the Consultant as of the date of the invoice, and shall be submitted together with a properly completed County Voucher form (29A). Invoices for new charges shall not include "past due" amounts, if any, which amounts must be set forth on a separate invoice. No payments shall be made with respect to invoices which do not include the County Voucher form or which otherwise fail to comply with the requirements of this paragraph. Consultant shall not be entitled to invoice the County for any late fees or other penalties.

**GC-07 PREPAID FEES**

In the event this Contract is terminated by either party, for cause or otherwise, and the County has prepaid for any Deliverables, Consultant shall refund to the County, on a prorated basis to the effective date of termination, all amounts prepaid for Deliverables not actually provided as of the effective date of the termination. The refund shall be made within fourteen (14) days of the effective date of termination.

**GC-08 TAXES**

Federal Excise Tax does not apply to materials purchased by the County by virtue of Exemption Certificate No. 36-75-0038K. Illinois Retailers' Occupation Tax, Use Tax and Municipal Retailers' Occupation Tax do not apply to deliverables, materials or services purchased by the County by virtue of statute. The price or prices quoted herein shall include any and all other federal and/or state, direct and/or indirect taxes which apply to this Contract. The County's State of Illinois Sales Tax Exemption Identification No. is E-9998-2013-05.

**GC-09 PRICE REDUCTION**

If at any time after the contract award, Consultant makes a general price reduction in the price of any of the Deliverables, the equivalent price reduction based on similar quantities and/or considerations shall apply to this Contract for the duration of the Contract period. For purposes of this Section GC-09, Price Reduction, a general price reduction shall include reductions in the effective price charged by Consultant by reason of rebates, financial incentives, discounts, value points or other benefits with respect to the purchase of the Deliverables. Such price reductions shall be effective at the same time and in the same manner as the reduction Consultant makes in the price of the Deliverables to its prospective customers generally.

**GC-10 CONSULTANT CREDITS**

To the extent the Consultant gives credits toward future purchases of goods or services, financial incentives, discounts, value points or other benefits based on the purchase of the materials or services provided for under this Contract, such credits belong to the County and not any specific using department. Consultant shall reflect any such credits on its invoices and in the amounts it invoices the County.

**GC-11 DISPUTES**

Any dispute arising under the Contract between the County and Consultant shall be decided by the Chief Procurement Officer. The complaining party shall submit a written statement detailing the dispute and specifying the specific relevant Contract provision(s) to the Chief Procurement Officer. Upon request of the Chief Procurement Officer, the party complained against shall respond to the complaint in writing within five days of such request. The Chief Procurement Officer will reduce his decision to writing and mail or otherwise furnish a copy thereof to the Consultant and the Director of the Using Department. The decision of the Chief Procurement Officer will be final and binding. Dispute resolution as provided herein shall be a condition precedent to any other action at law or in equity. However, unless a notice is issued by the Chief Procurement Officer indicating that additional time is required to review a dispute, the parties may exercise their contractual remedies, if any, if no decision is made within sixty (60) days following notification to the Chief Procurement Officer of a dispute. No inference shall be drawn from the absence of a decision by the Chief Procurement Officer. Notwithstanding a dispute, Consultant shall continue to discharge all its obligations, duties and responsibilities set forth in the Contract during any dispute resolution proceeding unless otherwise agreed to by the County in writing.

**GC-12 DEFAULT**

Consultant shall be in default hereunder in the event of a material breach by Consultant of any term or condition of this Contract including, but not limited to, a representation or warranty, where Consultant has failed to cure such breach within ten (10) days after written notice of breach is given to Consultant by the County, setting forth the nature of such breach.

In the event Consultant shall breach any material terms or conditions of this Contract on more than one occasion during any twelve month period during the term hereof, or in the event Consultant expresses an unwillingness or inability to continue performing the Contract in accordance with its terms, the County may, at its option, declare the Consultant to be in default and the County shall be entitled to exercise all available remedies including, but not limited to, termination of the Contract, without affording the Consultant further opportunity to cure such breach. Failure of County to give written notice of breach to the Consultant shall not be deemed to be a waiver of the County's right to assert such breach at a later time, should the Consultant commit a subsequent breach of this Contract.

A material breach of the contract by the Consultant includes but is not limited to the following:

1. Failure to begin performance under this Contract within the specified time;
2. Failure to perform under this Contract with sufficient personnel, equipment, or materials to ensure completion of said performance within the specified time or failure to assign qualified personnel to ensure completion within the specified time;
3. Performance of this contract in an unsatisfactory manner;

4. Refusal to perform services deemed to be defective or unsuitable;
5. Discontinuance of performance of Consultant's obligations under the Contract or the impairment or the reasonable progress of performance;
6. Becoming insolvent, being declared bankrupt or committing any act of bankruptcy or insolvency;
7. Any assignment of this contract for the benefit of creditors;
8. Any cause whatsoever which impairs performance in an acceptable manner; or
9. Any other material breach of any term or condition of this Contract.

County shall be in default hereunder if any material breach of the Contract by County occurs which is not cured by the County within ninety (90) days after written notice has been given by Consultant to the County, setting forth the nature of such breach.

#### **GC-13 COUNTY'S REMEDIES**

Following notice of material breach to Consultant, the County reserves the right to withhold payments otherwise owed to Consultant until such time as Consultant has cured the breach.

If the Consultant fails to remedy a material breach during the ten (10) day cure period pursuant to General Condition GC-12, Default, or if Consultant commits a subsequent material breach within a twelve month period or expresses an unwillingness or inability to continue performing the Contract in accordance with its terms, the County shall have the right to terminate this Contract upon written notice to the Consultant which shall set forth the effective date of such termination.

In addition, the County shall have the right to pursue all remedies in law or equity.

#### **GC-14 CONSULTANT'S REMEDIES**

If the County has been notified of breach and fails to remedy the breach during the ninety(90) day cure period pursuant to General Condition GC-12, Default, the Consultant shall have the right to terminate this Contract upon not less than thirty (30) days prior written notice to the County, which notice shall set forth the effective date of termination.

Consultant shall have the right to pursue all remedies available in law or equity. In all cases the Consultant's damages shall be those actual provable damages not to exceed the amount of the Contract as awarded by the Cook County Board of Commissioners less all amounts paid to Consultant. In no event shall Consultant be entitled to any consequential damages. Irrespective of the exercise of remedies hereunder, Consultant shall not disrupt the County's operations or repossess any component thereof.

**GC-15 DELAYS**

Consultant agrees that no charges or claims for damages shall be made by Consultant for any delays or hindrances from any cause whatsoever during the progress of any portion of this Contract.

**GC-16 MODIFICATIONS AND AMENDMENTS**

The parties may during the term of the Contract make modifications and amendments to the Contract but only as provided in this section. Such modifications and amendments shall only be made by mutual agreement in writing.

In the case of Contracts not approved by the Board, the Chief Procurement Officer may amend a contract provided that any such amendment does not extend the Contract by more than one (1) year, and further provided that the total cost of all such amendments does not increase the total amount of the Contract beyond \$150,000. Such action may only be made with the advance written approval of the Chief Procurement Officer. If the amendment extends the Contract beyond one (1) year or increases the total award amount beyond \$150,000, then Board approval will be required.

No County department or employee thereof has authority to make any modifications or amendments to this Contract. Any modifications or amendments to this Contract made without the express written approval of the Chief Procurement Officer is void and unenforceable.

Contractor is hereby notified that, except for modifications and amendments which are made in accordance with this GC-16, Modifications and Amendments, no County department or employee thereof has authority to make any modification or amendment to this Contract.



**GC-17 PATENTS, COPYRIGHTS AND LICENSES**

Consultant shall furnish the Director of the Using Department with all licenses required for the County to utilize any software, including firmware or middleware, provided by Consultant as part of the Deliverables. Such licenses shall be clearly marked with a reference to the number of this County Contract. Consultant shall also furnish a copy of such licenses to the Chief Procurement Officer. Unless otherwise stated in these Contract documents, such licenses shall be perpetual and shall not limit the number of persons who may utilize the software on behalf of the County.

Consultant agrees to hold harmless and indemnify the County, its officers, agents, employees and affiliates from and defend, at its own expense (including reasonable attorneys', accountants' and consultants' fees), any suit or proceeding brought against County based upon a claim that the ownership and/or use of equipment, hardware and software or any part thereof provided to the County or utilized in performing Consultant's services constitutes an infringement of any patent, copyright or license or any other property right.

In the event the use of any equipment, hardware or software or any part thereof is enjoined, Consultant with all reasonable speed and due diligence shall provide or otherwise secure for County, at the Consultant's election, one of the following: the right to continue use of the equipment, hardware or software; an equivalent system having the Specifications as provided in this Contract; or Consultant shall modify the system or its component parts so that they become non-infringing while performing in a substantially similar manner to the original system, meeting the requirements of this Contract.

**GC-18 COMPLIANCE WITH THE LAWS**

The Consultant shall observe and comply with the laws, ordinances, regulations and codes of the Federal, State, County and other local government agencies which may in any manner affect the performance of the Contract including, but not limited to, those County Ordinances set forth in the Certifications attached hereto and incorporated herein. Assurance of compliance with this requirement by the Consultant's employees, agents or Subcontractor shall be the responsibility of the Consultant.

The Consultant shall secure and pay for all federal, state and local licenses, permits and fees required hereunder.

**GC-19 MINORITY AND WOMEN BUSINESS ENTERPRISES  
COOK COUNTY ORDINANCE CHAPTER 10-43.7 PROFESSIONAL AND  
CONSULTING SERVICE AND SOLE SOURCE**

**I. POLICY AND GOALS**

- A. It is the policy of the County of Cook to prevent discrimination in the award of or participation in the County contracts and to eliminate arbitrary barriers for participation, as both prime and Subcontractor, in such contracts by local businesses certified as Minority Business Enterprises (MBE) and Women- Owned Business Enterprises (WBE). In furtherance of this policy, the Cook County Board of Commissioners has adopted a Minority-and-Women-Owned Business Enterprise Ordinance (the "Ordinance") which establishes a "best efforts" goal of awarding not less than twelve and one half percent (12.5%) MBE and five percent (5%) WBE participation of the annual total dollar amount of professional, consulting service and sole source contracts and agreements to certified MBEs and WBEs.
- B. A Proposer may achieve the MBE/WBE participation goals by its status as a MBE or WBE; by entering into a joint venture with one or more MBEs and/or WBEs; by subcontracting a portion of the work to one or more MBEs or WBEs; by entering into a Mentor-Protégé Agreement with a MBE or WBE; by the indirect participation of MBEs or WBEs in other aspects of the Proposer's business; or by a combination of the foregoing.
- C. A Waiver Request must be submitted with the Proposal, documenting the inability of the Proposer to meet the goals, and providing written evidence of "Good Faith Efforts," to obtain goals.
- D. A Proposer's failure to carry out its MBE/WBE commitments in the course of performance on a contract shall constitute a material breach of the contract, and if such breach is not appropriately cured, may result in the termination of the contract or such other remedies authorized by the Ordinance as the County deems appropriate.

**II. REQUIRED SUBMITTALS**

To be considered responsive to the requirements of the Ordinance, a Proposer shall submit Items A, B and C listed below. All documentation submitted shall be reviewed by the Contract Compliance Administrator. Failure to submit one of the items required shall be cause to consider a contract non-responsive to the Ordinance goals and may be rejected.

A. MBE/WBE Participation Documentation

Each Proposer shall submit supporting documentation which evidences efforts taken to achieve the County's "best efforts" MBE/WBE participation goals. Such documentation shall include:

1. A **Utilization Plan** identifying all firms intended to be utilized to fulfill the goals; the MBE/WBE status of each firm; the name, address, e-mail address and telephone number of the contact person for each MBE/WBE firm; the dollar value of the goods and services to be provided by the MBE/WBE firm; and the dollar value expressed as a percentage (%) of the total value of the purposed contract. (See Section I)
2. A **Letter of Intent** for each MBE/WBE containing specific information regarding goods to be provided or services to be performed by the MBE/WBE; the dollar value of the goods or services, the percentage (%) of the dollar value; and the original signatures of the appropriate officer for both the Proposer and the MBE/WBE. (See Exhibit II)
3. Current **Letter of Certification** for each MBE/WBE firm. Acceptable certifying agencies are: Cook County, Illinois Unified Certification Program (IUCP) and U. S. Small Business Administration. (SBA) (8A) or any other governmental body or agency approved by the Contract Compliance Administrator as applying certification standards substantially similar to those applied by the County of Cook may also be accepted.
4. **Waiver/Goal Reduction Petition** must be included at the time of the submission of the Proposal document. Where the Proposer does not include all documentation in support of the Petition at the time of submission, such documentation must be submitted to the Office of Contract Compliance not less than three (3) business days after the submission date.

The Contract Compliance Administrator retains the right to reject the certification of any MBE or WBE on the ground that it does not meet the County's definition of a MBE or WBE.

B. Use of MBE/WBE Professionals

Each Proposer shall submit with its proposal, a statement which discloses how it intends to maximize the use of minority and women professionals in the course of performing the contract.

C. Affirmative Action Plan

Each Proposer shall submit a copy of its current EEO-1 Report and a copy of its current Letter of Compliance from the United States Department of Labor, Office of Federal Contract Compliance Programs. Absent a Letter from OFCCP, the Proposer shall submit a written report of the inclusion of minority and women professional in the workforce of their company.

III. NON-COMPLIANCE

Where the County of Cook determines that the Proposer has failed to comply with its contractual commitments or any portion of the Ordinance, it will notify the Consultant of such non-compliance and may take any and all appropriate actions as set forth within the Ordinance.

IV. REPORTING/RECORD KEEPING REQUIREMENTS

The Proposer is required to comply with the reporting and record-keeping requirements as set forth in the Ordinance and as established by the Contract Compliance Administrator. Upon award of a contract, The Proposer is responsible for acquiring all necessary Office of Contract Compliance reporting and record-keeping forms as made available in the Office of Contract Compliance

The Office of Contract Compliance will notify each Consultant and Sub-Consultant upon award of a contract of their reporting obligations (Vendor Notification Letter)

The Office of Contract Compliance will notify each MBE/WBE Sub-Consultant of the award of a contract to a Prime Consultant, the MBE/WBE dollar amount of participation and the percentage (%) amount of participation. The Sub-Consultants will be required to submit on a timely basis, Sub-Consultants Payment Affidavits (see forms section) with proof of payment or money paid to them by the Prime Consultant.

The Office of Contract Compliance requests payment affidavits and proof of payment to MBE/WBE Sub-Consultants as follows:

1. **Annual Contracts:** monthly reporting from both Prime and Sub-Consultants.
2. **Multi Year Contracts:** quarterly reporting from both Prime and Sub-Consultants including proof of payments.
3. **One time purchases** require verification of proof of payment **immediately.**

Failure to comply with this section will be reviewed as non-compliance as stated under Section III. Non-Compliance.

V. **EQUAL EMPLOYMENT OPPORTUNITY**

Compliance with MBE and WBE requirements will not diminish or supplant Equal Employment Opportunity and Civil Rights provisions as otherwise required by law as they relate to Consultant and Subcontractor obligations.

Any questions regarding this document should be directed to:

Administrator  
Cook County Office of Contract Compliance  
118 N. Clark Street – Room 1020  
Chicago, Illinois 60602  
(312)603-5502

**GC-20 MATERIAL DATA SAFETY SHEET**

Where required under the Illinois "Toxic Substance Disclosure To Employees Act", Illinois Compiled Statutes, 2002, 820 ILCS 255/1, Consultant shall submit with each delivery of Deliverables, a Material Safety Data Sheet.

**GC-21 CONDUCT OF THE CONSULTANT**

The Consultant agrees to inform the County on a timely basis of all of the Consultant's interests, if any, which are or which the Consultant reasonably believes may be incompatible with any interest of the County. The Consultant shall take notice of and comply with the Cook County Lobbyist Registration Ordinance (No. 93-0-22, 6-22-93). Neither the Consultant nor any of its employees, agents or Subcontractor shall use for business or personal gain, or make other improper use of, confidential information which is acquired in connection with the Contract. To the extent Consultant will have access to the County's protected health information in performing its responsibilities under this Contract, Consultant shall contact the Chief Privacy Officer for the Using Department(s) and shall execute the County's business associate agreement prior to performing any responsibilities which involve access to protected health information.

**GC-22 ACCIDENT REPORTS**

Consultant shall provide the Chief Procurement Officer and the Director of the Using Department with prompt written notification (no later than twenty-four (24) hours) of any occurrence, on County premises or otherwise, which pertains in any way to this Contract and which results in either bodily injury to employees or third parties or property damage. The report shall include the name of person(s) injured, if any; name of the injured person's employer, if any; the date, time and location of the occurrence; description of the extent of injury and/or damage; the name(s) of witnesses; the names of any providers known to have provided treatment for injuries sustained; and such other information as may be required by the County. The Consultant shall notify the local police regarding any occurrence requiring an official police record. The report submitted to the County should indicate whether the police were notified and, if so, the number of the police report.

**GC-23 USE OF COUNTY PREMISES AND RESOURCES**

Consultant shall confer with the Director of the Using Department to ascertain full knowledge of all rules and regulations of the County facilities relative to this Contract and shall cause all of its employees, agents and Subcontractor to comply therewith. The Consultant shall confine the operations of its employees, agents and Subcontractor on County premises to the performance of the Contract consistent with limits indicated by laws, ordinances, permits and/or direction of the Director of the Using Department and shall not encumber the premises with materials or debris. In performing the Contract, the Consultant shall not cause or permit a condition that endangers the safety of others and shall not load or permit any part of a structure to be loaded with a weight that will endanger the safety of the structure or any persons.

**GC-24 TERMINATION FOR CONVENIENCE AND SUSPENSION OF CONTRACT**

The County may terminate this Contract, or any portion, at any time by notice in writing from the County to the Consultant. Unless otherwise stated in the notice, the effective date of such termination shall be three business days after the date the notice of termination is mailed by the County. If the County elects to terminate the Contract in full, unless otherwise specified in the notice of termination, the Consultant shall immediately cease performance and shall promptly tender to the County all Deliverables, whether completed or in process. If the County elects to terminate the Contract in part, unless otherwise specified in the notice of partial termination, the Consultant shall immediately cease performance of those portions of the Contract which are terminated and shall promptly tender to the County all Deliverables relating to said portions of the Contract, whether completed or in process. Consultant shall refrain from incurring any further costs with respect to portions of the Contract which are terminated except as specifically approved by the Chief Procurement Officer.

**GC-25 GENERAL NOTICE**

All notices required pursuant to this Contract shall be in writing and addressed to the parties at their respective addresses set forth below. All such notices shall be deemed duly given if hand delivered or if deposited in the United States mail, postage prepaid, registered or certified, return receipt requested. Notice as provided herein does not waive service of summons or process.

**TO THE COUNTY:**

COOK COUNTY CHIEF PROCUREMENT OFFICER  
118 North Clark Street, Room 1018  
Chicago, Illinois 60602  
(Include County Contract Number in all notices)

**TO THE CONSULTANT:**

At address provided on the Execution Pages or as otherwise indicated in writing to County Chief Procurement Officer in a written document which, in bold face type, references the name of the Consultant, the County Contract Number and states "NOTIFICATION OF CHANGE IN ADDRESS."

**GC-26        GUARANTEES AND WARRANTIES**

The Consultant shall furnish all guarantees and warranties applicable to the Deliverables to the Director of the Using Department prior to or at the time of delivery. All Deliverables shall be covered by the most favorable commercial warranties and guarantees the Consultant gives to any customer for the same or substantially similar Deliverables or Services. The rights and remedies so provided shall be in addition to and shall not limit any rights afforded to County under this Contract.

To the extent Consultant provides Deliverables manufactured by another entity, Consultant shall transfer original product warranty and any rights to manufacturer's related services to the County and shall submit all appropriate documentation of said transfer to the Director of the Using Department prior to or at the time the Consultant tenders the Deliverables.

**GC-27        STANDARD OF DELIVERABLES**

Except as may be expressly stated in the Special Conditions or Specifications of this Contract, only new, originally manufactured Deliverables will be accepted by the County. The County will not accept any Deliverables that have been refurbished, rebuilt, restored or renovated in any manner. In addition, experimental materials will not be acceptable. Deliverables not produced by regular production methods and/or which have not been offered for sale to the public through accepted industry trade channels for a reasonable period of time prior to the commencement of the Contract will be considered experimental.

**GC-28        DELIVERY**

All Contract Goods shipped to the County shall be shipped F.O.B., DESTINATION, FREIGHT PREPAID. Arrangements shall be made in advance by the Consultant in order that the County may arrange for receipt of the materials.

Truck deliveries will be accepted before 3:00 P.M. on weekdays only. No deliveries will be accepted on Saturdays, Sundays or County Holidays. The County is not responsible for delivery delays due to waiting times for loading and unloading at dock locations.

The quantity of Contract Goods delivered by truck will be ascertained from a weight certificate issued by a duly licensed Public Weight-Master. In the case of delivery by rail, weight will be ascertained from bill of lading from originating line, but the County reserves the right to re-weigh at the nearest available railroad scale.

The County reserves the right to add new delivery locations or delete previously listed delivery locations as required during the Contract period. The only restriction regarding the County's right to add new delivery locations shall be that any new or additional location shall be within the geographical boundaries of the County of Cook.

**GC-29        QUANTITIES**

Any quantities of indicated in the Proposal Pages for the performance of the Contract are estimates for the purpose of determining an approximate total Contract amount and may not be the actual quantities required by the County during the term of the Contract. The County reserves the right to increase or decrease such quantities at the Contract price to correspond to the actual needs of the County. If the County increases the quantities required, any such increase shall be subject to an agreed written amendment in the Contract Amount. The County will be obligated to order and pay for only such quantities as are from time to time ordered, delivered, and accepted on purchase orders issued by the Chief Procurement Officer.

**GC-30        CONTRACT INTERPRETATION**

Whenever the singular is used herein, the masculine, feminine and neuter gender shall be deemed to include the others. The headings of articles, paragraphs and sections in this Contract are included for convenience only and shall not be considered by either party in construing the meaning of this Contract. If any provision or clause of this Contract shall be held to be invalid, such provision or clause shall be deleted from the Contract and the Contract shall be construed to give effect to the remaining portions thereof.

— This Contract shall be interpreted and construed based upon the following order of precedence of component parts. Such order of precedence shall govern to resolve all cases of conflict, ambiguity or inconsistency.

1. Addenda, if any.
2. Execution Forms
3. Specification.
4. Special Conditions.
5. General Conditions.
6. Instruction to Bidders.
7. Legal Advertisement.
8. Bid Proposal



**GC-31 CONFIDENTIALITY AND OWNERSHIP OF DOCUMENTS**

Consultant acknowledges and agrees that information regarding this Contract is confidential and shall not be disclosed, directly, indirectly or by implication, or be used by Consultant in any way, whether during the term of this Contract or at any time thereafter, except solely as required in the course of Consultant's performance hereunder. Consultant shall comply with the applicable privacy laws and regulations affecting County and will not disclose any of County's records, materials, or other data to any third party. Consultant shall not have the right to compile and distribute statistical analyses and reports utilizing data derived from information or data obtained from County without the prior written approval of County. In the event such approval is given, any such reports published and distributed by Consultant shall be furnished to County without charge.

All documents, data, studies, reports, work product or product created as a result of the performance of the Contract (the "Documents") shall be included in the Deliverables and shall be the property of the County of Cook. It shall be a breach of this Contract for the Consultant to reproduce or use any documents, data, studies, reports, work product or product obtained from the County of Cook or any Documents created hereby, whether such reproduction or use is for Consultant's own purposes or for those of any third party. During the performance of the Contract Consultant shall be responsible of any loss or damage to the Documents while they are in Consultant's possession, and any such loss or damage shall be restored at the expense of the Consultant. The County and its designees shall be afforded full access to the Documents and the work at all times.

**GC-32 GOVERNING LAW**

This Contract shall be governed by and construed under the laws of the State of Illinois. The Consultant irrevocably agrees that, subject to the County's sole and absolute election to the contrary, any action or proceeding in any way, manner or respect arising out of the Contract, or arising from any dispute or controversy arising in connection with or related to the Contract, shall be litigated only in courts within the Circuit Court of Cook County in the City of Chicago, County of Cook, State of Illinois, and the Consultant consents and submits to the jurisdiction thereof. In accordance with these provisions, Consultant waives any right it may have to transfer or change the venue of any litigation brought against it by the County pursuant to this Contract.

**GC-33 WAIVER**

No term or provision of this Contract shall be deemed waived and no breach consented to unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. The waiver of any such provision shall be strictly limited to the identified provision.

**GC-34 ENTIRE CONTRACT**

It is expressly agreed that the provisions set forth in this Contract constitute all the understandings and agreements between the parties. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Contract are of no force and effect.

**GC-35      AUDIT; EXAMINATION OF RECORDS**

The Consultant agrees that the Cook County Auditor or any of its duly authorized representatives shall, until expiration of three (3) years after the final payment under the Contract, have access and the right to examine any books, documents, papers, canceled checks, bank statements, purveyor's and other invoices, and records of the Consultant related to the Contract, or to Consultant's compliance with any term, condition or provision thereof. The Consultant shall be responsible for establishing and maintaining records sufficient to document the costs associated with performance under the terms of this Contract.

The Consultant further agrees that it shall include in all of its subcontracts hereunder a provision to the effect that the Subcontractor agrees that the Cook County Auditor or any of its duly authorized representatives shall, until expiration of three (3) years after final payment under the subcontract, have access and the right to examine any books, documents, papers, canceled checks, bank statements, purveyor's and other invoices and records of such Subcontractor involving transactions relating to the subcontract, or to such Subcontractor's compliance with any term, condition or provision thereunder or under the Contract.

In the event the Consultant receives payment under the Contract, reimbursement for which is later disallowed by the County, the Consultant shall promptly refund the disallowed amount to the County on request, or at the County's option, the County may credit the amount disallowed from the next payment due or to become due to the Consultant under any contract with the County.

To the extent this Contract pertains to Deliverables which may be reimbursable under the Medicaid or Medicare Programs, Consultant shall retain and make available upon request, for a period of four (4) years after furnishing services pursuant to this Agreement, the contract, books, documents and records which are necessary to certify the nature and extent of the costs of such services if requested by the Secretary of Health and Human Services or the Comptroller General of the United States or any of their duly authorized representatives. If Consultant carries out any of its duties under the Agreement through a subcontract with a related organization involving a value of cost of \$10,000.00 or more over a 12 month period, Consultant will cause such subcontract to contain a clause to the effect that, until the expiration of four years after the furnishing of any service pursuant to said subcontract, the related organization will make available upon request of the Secretary of Health and Human Services or the Comptroller General of the United States or any of their duly authorized representatives, copies of said subcontract and any books, documents, records and other data of said related organization that are necessary to certify the nature and extent of such costs. This paragraph relating to the retention and production of documents is included because of possible application of Section 1861(v)(1)(I) of the Social Security Act to this Agreement; if this Section should be found to be inapplicable, then this paragraph shall be deemed inoperative and without force and effect.

**GC-36      FORCE MAJEURE OR UNAVOIDABLE DELAYS**

Neither Consultant nor County shall be liable for failing to fulfill any obligation under this Contract if such failure is caused by an event beyond such party's reasonable control which is not caused by such party's fault or negligence. Such events shall be limited to acts of God, acts of war, fires, lightning, floods, epidemics, or riots.

**GC-37      INDEPENDENT CONSULTANT STATUS; NO THIRD PARTY BENEFICIARIES**

The Consultant and its employees, agents and Subcontractor are, for all purposes arising out of the Contract, independent Consultants and not employees of the County. It is expressly understood and agreed that neither the Consultant nor Consultant's employees, agents or Subcontractor shall be entitled to any benefit to which County employees may be entitled including, but not limited to, overtime or unemployment compensation, insurance or retirement benefits, workers' compensation or occupational disease benefits or other compensation or leave arrangements.

Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent or of partnership or of joint venturer or any relationship between the parties hereto other than that of independent Consultants. Nothing herein shall be construed to confer upon any third parties the status of third party beneficiary.

**GC-38      GOVERNMENTAL JOINT PURCHASING AGREEMENT**

Pursuant to Section 4 of the Illinois Governmental Joint Purchasing Act (30 ILCS 525) and the Joint Purchase Agreement approved by the Cook County Board of Commissioners (April 9, 1965), other units of government may purchase goods or services under this contract.

**GC-39      COOPERATIVE PURCHASING**

As permitted by the County of Cook, other government entities may wish to also participate under the same terms and conditions contained in this contract (piggyback). Each entity wishing to piggyback must have prior authorization from the County of Cook and vendor. If such participation is authorized, all purchase orders will be issued directly from and shipped directly to the entity requiring supplies/services. The County shall not be held responsible for any orders placed, deliveries made or payment for supplies/services ordered by these entities. Each entity reserves the right to determine their participation in this contract.

**GC-40      COOPERATION WITH INSPECTOR GENERAL**

Persons or businesses seeking County contracts are required to abide by all of the applicable provisions of the Office of the Independent Inspector General Ordinance (Section 2-281 et. seq. of the Cook County Code of Ordinances). Failure to cooperate as required may result in monetary and/or other penalties.

Consultants, Subcontractor, licensees, grantees or persons or businesses who have a County contract, grant, license, or certification of eligibility for County contracts shall abide by all of the applicable provisions of the Office of the Independent Inspector General Ordinance. Failure to cooperate as required may result in monetary and/or other penalties.

**GC-41      FEDERAL CLAUSES**

1.      Interest of Members of or Delegates to the United States Congress  
In accordance with 41 U.S.C. § 22, the Consultant agrees that it will not admit any member of or delegate to the United States Congress to any share or part of the Contract or any benefit derived therefrom.
  
2.      False or Fraudulent Statements and Claims
  - (a)      The Consultant recognizes that the requirements of the Program Fraud Civil Remedies Act of 1986, as amended, 49 U.S.C. §§ 3081 et seq and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to the Contract. Accordingly, by signing the Contract, the Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or it may make pertaining to the Contract, including without limitation any invoice for its services. In addition to other penalties that may be applicable, the Consultant also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Consultant to the extent the Federal Government deems appropriate.
  
  - (b)      The Consultant also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the County or Federal Government in connection with an urbanized area formula project financed with Federal assistance authorized by 49 U.S.C. § 5307, the Government reserves the right to impose on the Consultant the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1), to the extent the Federal Government deems appropriate.

3. Federal Interest in Patents

- (a) General. If any invention, improvement, or discovery of the Consultant is conceived or first actually reduced to practice in the course of or under the Contract, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Consultant agrees to notify County immediately and provide a detailed report.
- (b) Federal Rights. Unless the Federal Government later makes a contrary determination in writing, the rights and responsibilities of the County, Consultant, and the Federal Government pertaining to that invention, improvement, or discovery will be determined in accordance with applicable Federal laws and regulations, including any waiver thereof. Unless the Federal Government later makes a contrary determination in writing, the Consultant agrees that, irrespective of its status or the status of any Subcontractor at any tier (e.g., a large business, small business, non-profit organization, institution of higher education, individual), the Consultant agrees it will transmit to the Federal Government those rights due the Federal Government in any invention resulting from the contract.

4. Federal Interest in Data and Copyrights

- (a) Definition. The term "subject data" used in this section means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Contract. Examples include, but are not limited, to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to Contract administration.
- (b) Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Contract. Except as provided in the Contract and except for its own internal use, the Consultant may not publish or publicly reproduce subject data in whole or in part, or in any manner or form, nor may the Consultant authorize others to do so, without the written consent of the County and the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public.
- (c) Federal Rights in Data and Copyrights. In accordance with subparts 34 and 36 of the Common Rule, the County and the Federal Government reserve a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for County or Federal Government purposes, the types of subject data described below. Without the copyright owner's consent, the County and Federal Government may not extend their license to other parties.

- (1) Any subject data developed under the contract or subagreement financed by a federal Grant Agreement or Cooperative Agreement, whether or not a copyright has been obtained; and
  - (2) Any rights of copyright which the Consultant purchases ownership with Federal assistance.
- (d) **Special Federal Rights for Planning Research and Development Projects.** When the Federal Government provides financial assistance for a planning, research, development, or demonstration project, its general intention is to increase public knowledge, rather than limit the benefits of the project to participants in the project. Therefore, unless the Federal Government determines otherwise, the Consultant on a planning, research, development, or demonstration project agrees that, in addition to the rights in data and copyrights set forth above, the County or Federal Government may make available to any third party either a license in the copyright to the subject data or a copy of the subject data. If the project is not completed for any reason whatsoever, all data developed under the project will become subject data and will be delivered as the County or Federal Government may direct. This subsection, however, does not apply to adaptations of automatic data processing equipment or previously existing software programs for the County's use whose costs are financed with Federal transportation funds for capital projects.
- (e) **Hold Harmless.** Unless prohibited by state law, upon request by the County or the Federal Government, the Consultant agrees to indemnify, save, and hold harmless the County and the Federal Government and their officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Consultant of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Contract. The Consultant will not be required to indemnify the County or Federal Government for any such liability arising out of the wrongful acts of employees or agents of the County or Federal Government.
- (f) **Restrictions on Access to Patent Rights.** Nothing contained in this section on rights in data will imply a license to the County or Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the County or Federal Government under any patent.
- (g) **Application on Materials Incorporated into Project.** The requirements of Subsections 2, 3, and 4 of this Section do not apply to material furnished by the County and incorporated into the work.

5. Records and Audits

Consultant will deliver or cause to be delivered all documents (including but not limited to all Deliverables and supporting data, records, graphs, charts and notes) prepared by or for the County under the terms of this Agreement to the County promptly in accordance with the time limits prescribed in this Contract, and if no time limit is specified, then upon reasonable demand therefor or upon termination or completion of the Services hereunder. In the event of the failure by the Consultant to make such delivery, then and in that event, the Consultant will pay to County reasonable damages the County may sustain by reason thereof.

The County and the Federal Government will have the right to audit all payments made to the Consultant under this Agreement. Any payments to the Consultant which exceed the amount to which the Consultant is entitled under the terms of this Agreement will be subject to set-off.

The Consultant will keep and retain records relating to this Agreement and will make such records available to representatives of the County and the Federal Government, including without limitation the sponsoring federal agency, other participating agencies, and the Comptroller General of the United States, at reasonable times during the performance of this Agreement and for at least five years after termination of this Agreement for purposes of audit, inspection, copying, transcribing and abstracting.

No provision in this Agreement granting the County or the Federal Government a right of access to records is intended to impair, limit or affect any right of access to such records which the County or the Federal Government would have had in the absence of such provisions.

6. Environmental Requirements

The Consultant recognizes that many Federal and state laws imposing environmental and resource conservation requirements may apply to the Contract. Some, but not all, of the major Federal Laws that may affect the Contract include: the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq.; the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. and scattered sections of 29 U.S.C.; the Clean Water Act, as amended, scattered sections of 33 U.S.C. and 12 U.S.C.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq. The Consultant also recognizes that U.S. EPA, U.S. DOT and other agencies of the Federal Government have issued and are expected in the future to issue regulations, guidelines, standards, orders, directives, or other requirements that may affect the Contract. Thus, the Consultant agrees to adhere to, and impose on its Subcontractor, any such Federal requirements as the Federal Government may now or in the future promulgate. Listed below are requirements of particular concern.

The Consultant acknowledges that this list does not constitute the Consultant's entire obligation to meet all Federal environmental and resource conservation requirements. The Consultant will include these provisions in all subcontracts.

- (a) Environmental Protection. The Consultant agrees to comply with the applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq. in accordance with Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 Fed. Reg. 7629, Feb. 16, 1994; U.S. DOT statutory requirements on environmental matters at 49 U.S.C. § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500 et seq.; and U.S. DOT regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622.
- (b) Air Quality. The Consultant agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. Specifically, the Consultant agrees to comply with applicable requirements of U.S. EPA regulations, "Conformity to State of Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40 C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93. The Consultant further agrees to report and require each Subcontractor at any tier to report any violation of these requirements resulting from any Contract implementation activity to the County and the appropriate U.S. EPA Regional Office.
- (c) Clean Water. The Consultant agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. The Consultant further agrees to report and require each Subcontractor at any tier to report any violation of these requirements resulting from any Contract implementation activity to the County and the appropriate U.S. EPA Regional Office.
- (d) List of Violating Facilities. The Consultant agrees that any facility to be used in the performance of the Contract or to benefit from the Contract will not be listed on the U.S. EPA List of Violating Facilities ("List"), and the Consultant will promptly notify the County if the Consultant receives any communication from the U.S. EPA that such a facility is under consideration for inclusion on the List.



- (e) Preference for Recycled Products. To the extent practicable and economically feasible and to the extent that it does not reduce or impair the quality of the work, the Consultant agrees to use recycled products in performance of the Contract pursuant to U.S. Environment Protection Agency (U.S. EPA) guidelines at 40 C.F.R. Parts 247-253, which implement section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962.

7. No Exclusionary or Discriminatory Specifications

Apart from inconsistent requirements imposed by Federal statute or regulations, the Consultant agrees that it will comply with the requirements of 49 U.S.C. § 5323(h)(2) by refraining from using any Federal assistance to support subcontracts procured using exclusionary or discriminatory specifications.

8. Cargo Preference - Use of United States Flag Vessels

The Consultant agrees to comply with U.S. Maritime Administration regulations, "Cargo-Preference -- U.S. Flag Vessels," 49 C.F.R. Part 381, and to include the clauses required by those regulations, modified as necessary to identify the affected parties, in each subcontract or subagreement involving equipment, materials, or commodities suitable for transport by ocean vessel.

9. Fly America

Section 14.c of the Master Agreement states that if the contract or subcontracts may involve the international transportation of goods, equipment, or personnel by air, the contract must require Consultants and Subcontractor at every tier to use U.S.-flag air carriers, to the extent service by these carriers is available. 49 U.S.C. 40118 and 4 C.F.R. Part 52.

10. No Federal Government Obligations to Third Parties

The Consultant agrees that, absent the Federal Government's express written consent, the Federal Government will not be subject to any obligations or liabilities to any Consultant or any other person not a party to the Grant Agreement or Cooperative Agreement between the County and the Federal Government which is a source of funds for this Contract. Notwithstanding any concurrence provided by the Federal Government in or approval of any solicitation, agreement, or contract, the Federal Government continues to have no obligations or liabilities to any party, including the Consultant.

11. Allowable Costs

Notwithstanding any compensation provision to the contrary, the Consultant's compensation under this Contract will be limited to those amounts which are allowable and allocable to the Contract in accordance with OMB Circular A-87 and the regulations in 49 C.F.R. Part 18. To the extent that an audit reveals that the Consultant has received payment in excess of such amounts, the County may offset such excess payments against any future payments due to the Consultant and, if no future payments are due or if future payments are less than such excess, the Consultant will promptly refund the amount of the excess payments to the County.

12. Trade Restrictions

Consultant certifies that neither it nor any Subcontractor:

- (a) is owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- (b) has knowingly entered into any contract or subcontract with a person that is a citizen or national of a foreign country on said list, nor is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- (c) will procure, subcontract for, or recommend any product that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no Notice-to-Proceed will be issued to an entity who is unable to certify to the above. If Consultant knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the USDOT may direct, through the County, cancellation of the Contract at no cost to the Government.

Further, Consultant agrees that it will incorporate this provision for certification without modification in each subcontract. Consultant may rely on the certification of a prospective Subcontractor unless it has knowledge that the certification is erroneous. Consultant will provide immediate written notice to the County if it learns that its certification or that of a Subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. Each Subcontractor must agree to provide written notice to Consultant if at any time it learns that its certification was erroneous by reason of changed circumstances. Nothing contained in the foregoing will be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of the Consultant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 100

13. Contract Work Hours and Safety Standards Act

If applicable according to their terms, the Consultant agrees to comply and assures compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 327 through 333, and implementing U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5; and U.S. DOL regulations, "Safety and Health Regulations for Construction," 29 C.F.R. Part 1926. In addition to other requirements that may apply:

- (a) In accordance with section of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 327 through 332, the Consultant agrees and assures that, for the Contract, the wages of every mechanic and laborer will be computed on the basis of a standard work week of 40 hours, and that each worker will be compensated for work exceeding the standard work week at a rate of not less than 1.5 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The Consultant agrees that determinations pertaining to these requirements will be made in accordance with applicable U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5.

- (b) In accordance with section 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 333, the Consultant agrees and assures that no laborer or mechanic working on a construction contract will be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to his or her health and safety, as determined in accordance with U.S. DOL regulations, "Safety and Health Regulations for Construction," 29 C.F.R. Part 1926.
14. Veteran's Preference  
In the employment of labor (except in executive, administrative, and supervisory positions), preference will be given to Vietnam-era veterans and disabled veterans. However, this preference may be given only where individuals are available and qualified to perform the work to which employment relates.
15. Copyright Ownership  
Consultant and the County intend that, to the extent permitted by law, the Deliverables to be produced by Consultant at the County's instance and expense pursuant to this Agreement are conclusively deemed "works made for hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. §101 et seq. (the "Copyright Act"), and that the County will be the copyright owner of the Deliverables and of all aspects, elements and components of them in which copyright can subsist.

To the extent that any Deliverable does not qualify as a "work made for hire," Consultant irrevocably grants, conveys, bargains, sells, assigns, transfers and delivers to the County, its successors and assigns, all right, title and interest in and to the copyrights and all U.S. and foreign copyright registrations, copyright applications and copyright renewals for them, and other intangible, intellectual property embodied in or pertaining to the Deliverables prepared for the County under this Agreement, free and clear of any liens, claims or other encumbrances, to the fullest extent permitted by law. Consultant will execute all documents and perform all acts that the County may reasonably request in order to assist the County in perfecting its rights in and to the copyrights relating to the Deliverables, at the sole expense of the County. Consultant warrants to County, its successors and assigns, that on the date of transfer Consultant is the lawful owner of good and marketable title in and to the copyrights for the Deliverables and has the legal rights to fully assign them. Consultant further warrants that it has not assigned any copyrights nor granted any licenses, exclusive or nonexclusive, to any other party, and that it is not a party to any other agreements or subject to any other restrictions with respect to the Deliverables. Consultant warrants and represents that the Deliverables are complete and comprehensive, and the Deliverables are a work of original authorship.

16. Accessibility Compliance

If this Agreement involves design for construction, the Consultant warrants that all design documents produced or utilized under this Agreement and all construction or alterations undertaken under this Agreement will comply with all federal, state and local laws and regulations regarding accessibility standards for persons with disabilities or environmentally limited persons including, but not limited to, the following: the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. and the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities ("ADAAG"); the Architectural Barriers Act, Pub. L. 90-480 (1968), and the Uniform Federal Accessibility Standards ("UFAS"); and the Illinois Environmental Barriers Act, 410 ILCS 25/1 et seq., and all regulations promulgated thereunder, see Illinois Administrative Code, Title 71, Chapter 1, Section 400.110. If the above standards are inconsistent, the Consultant must comply with the standard providing the greatest accessibility. Also, the Consultant must, prior to construction, review the plans and specifications to insure compliance with the above referenced standards. If the Consultant fails to comply with the foregoing standards, the Consultant must perform again, at no expense, all services required to be re-performed as a direct or indirect result of such failure.

17. Visual Rights Act Waiver

The Consultant/Consultant waives any and all rights that may be granted or conferred under Section 106A and Section 113 of the United States Copyright Act, (17 U.S.C. § 101 et seq.) (the "Copyright Act") in any work of visual art that may be provided pursuant to this Agreement. Also, the Consultant/Consultant represents and warrants that the Consultant/Consultant has obtained a waiver of Section 106A and Section 113 of the Copyright Act as necessary from any employees and Subcontractor, if any.

18. Equal Employment Opportunity

All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

19. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)  
All contracts and subgrants in excess of \$2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Consultants and Subcontractor on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each Consultant or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.
20. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)  
When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, Consultants shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, Consultants shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.
21. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)  
Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each Consultant shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

22. Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

23. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended

Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

24. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

Consultants who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

25. Debarment and Suspension (E.O.s 12549 and 12689)

No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and Consultants declared ineligible under statutory or regulatory authority other than E.O. 12549. Consultants with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

**END OF SECTION**

CONTRACT NO: 1430-14172

EXHIBIT 1

**Scope of Services and Price Proposal**

---



### Scope of Services and Price Proposal

The Contractor is to provide the following Bottled Drinking Water, Distilled Water & Water Cooler Rentals goods and services at prices herein up to \$105,255.30.

The Contractor shall deliver the contracted goods to Cook County Government with the only delivery confine being addresses within Cook County, IL. The County reserves the right to add new delivery locations or delete delivery locations as required during the Contract period. The only restriction regarding the County's right to add new delivery locations shall be that any new or additional location shall be within the geographical boundaries of the County of Cook.

<u>Line</u>	<u>Item</u>	<u>Price</u>	<u>Estimated Quantities</u>	<u>Extended Total</u>
1	Water, Bottled - 16.9 OZ Bottles, 24 Bottles/Case	\$4.99	700	\$3,493.00
2	Water, Bottled - Drinking Water in 5 Gallon Bottle	\$3.99	21,800	\$86,982.00
3	Water, Bottled - Distilled Water in 1 Gallon Bottle	\$5.99	100	\$599.00
4	Water, Bottled - Distilled Water in 5 Gallon Bottle	\$6.99	1,400	\$9,786.00
5	Rental of Water Cooler - Electric Hot and Cold Cooler without Refrigerator - Monthly Rental Charge	\$2.99	1,470	\$4,395.30
<b>Contract Not-to-Exceed Value:</b>				<b>\$105,255.30</b>

CONTRACT NO: 1430-14172

EXHIBIT 2

**City of Chicago Contract No. 30043**

## Contract Summary Sheet

**Contract (PO) Number:** 30043

**Specification Number:** 82197E

**Name of Contractor:** NESTLE WATERS NORTH AMERICA D/B/A NESTLE PURE LIFE

**City Department:** DEPT OF STREETS & SANITATION

**Title of Contract:** BOTTLED DRINKING WATER, DISTILLED WATER & WATER  
COOLER RENTALS

**Term of Contract: Start Date:** 6/3/2014

**End Date:** 6/2/2019

**Dollar Amount of Contract (or maximum compensation if a Term Agreement) (DUR):**  
\$384,506.00

**Brief Description of Work:** BOTTLED DRINKING WATER, DISTILLED WATER &  
WATER COOLER RENTALS

**Procurement Services Contract Area:** COMMODITIES

*Please refer to the DPS website for Contact information under "Doing Business With The City".*

**Vendor Number:** 56511109

**Submission Date:**

*June 5, 2014*

City Only	City Use Only	City Use Only
City Vendor No	Vendor Name	City Contract/PO No
56511109	NESTLE WATERS, N A	30043



**ACCEPTED**

## Bottled Drinking Water, Distilled Water & Water Cooler Rentals

Specification Number: 82197E

RFQ Number 4527

Issued by

CITY OF CHICAGO DEPARTMENT OF PROCUREMENT SERVICES

Required for use by

CITY OF CHICAGO DEPARTMENT OF STREETS AND SANITATION

**Bidder Inquiry Deadline:** 4 00 p m Central Time, March 7, 2014 Inquiries must be in writing

**Bid Opening Date:** March 19, 2014

**Bid Opening Time:** 11 00 a m Central Time

**Bid Opening Location:** Bid & Bond Room, City Hall, Room 301, 121 N LaSalle Street, Chicago, Illinois 60602

**Information:**

Stacy Stewart, Senior Procurement Specialist

Email: Stacy Stewart@cityofchicago.org, Fax (312) 744-7679, Phone (312) 744-2681

DPS Address: City Hall, Room 806, 121 North LaSalle Street, Chicago, Illinois 60602

DPS Web: [www.cityofchicago.org/procurement](http://www.cityofchicago.org/procurement) and [www.cityofchicago.org/bids](http://www.cityofchicago.org/bids)

Execute and submit one (1) complete original bid package All signatures to be sworn to before a Notary Public Bid must be received in the City of Chicago Department of Procurement Services (DPS) Bid & Bond Room no later than the date and time above during regular business hours (8 30 a m to 4 30 p m Central Time) Bids will be read publicly Bid package must be complete and returned in its entirety Do not scan or recreate the bid package, the original must be used

Bid must be submitted in sealed envelope(s) or package(s) The outside of the envelope or package must clearly indicate the name of the project, **Bottled Drinking Water, Distilled Water & Water Cooler Rentals**, the specification number, **82197E**, the time and date specified for receipt and marked "Bid Enclosed" The name, address and phone number of the Bidder must also be clearly printed on the outside of all envelope(s) or package(s)

**Bid Deposit:** None  
**Performance Bond:** None  
**City Business Preference** Yes  
**Local Manufacture Preference** Yes  
**Alternative Fuel Vehicle Pref.** Yes  
**Bid Specific Goals:** 0% MBE and 0% WBE  
**Funding Source:** Non-Federal  
**Fund Number:** 013-0100-081-2025-0340-220340 and Various

**DPS Unit:** Commodities  
**Reverse Auction:** No  
**Drawings:** None  
**Exhibits:** None  
**Maps:** None  
**Contract Term:** 60 Months  
**Start Date:** \_\_\_\_\_  
**Expiration Date:** \_\_\_\_\_

**Rahm I. Emanuel**  
**Mayor**

**Jamie L. Rhee**  
**Chief Procurement Officer**

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**Missing Information, Documents, and/or Bonds May Invalidate Your Bid.**

To help ensure that you are submitting a complete bid, place an "X" next to each item below after completing and incorporating the item into your bid package. Write "N/A" if an item does not apply to your bid.

1. ☐ Bid Submittal Checklist
2. ☐ Insurance Certificate of Coverage
3. ☐ MBE/WBE Compliance Plan
  - a. ☐ Schedule B – Affidavit of Joint Venture MBE/WBE – (only if bidder is a joint venture)
  - b. ☐ Schedule C-1: Letter(s) of Intent from MBE/WBE to Perform as Sub-contractor, Supplier and/or Consultant (if applicable).
  - c. ☐ Schedule D-1: Affidavit of MBE/WBE Goal Implementation Plan (if applicable)
  - d. ☐ Request for a reduction or waiver of MBE/WBE goals (if applicable)
4. ☐ Certificate of Filing of Economic Disclosure Statement and Affidavit (EDS)
5. ☐ Bid incentive/preference affidavit(s): Chicago Business, Local Manufacture, and/or Alternatively Powered Vehicles (if applicable)
6. ☐ Proposal Page(s) (Schedule of Prices)
7. ☐ Bid Execution Page
8. ☐ Bid Deposit (if required)

**NOTE:** Each page requiring a signature must be signed by the person with proper authority and sworn before a Notary Public where noted.

**NOTE:** Each Bidder must acknowledge the receipt of a full set of Bid Documents and any and all Addenda at the top of the Bid Execution Page.

## **REQUIREMENTS FOR BIDDING AND INSTRUCTIONS TO BIDDERS**

Read this carefully before preparing your bid.

### **1.1. The Bid Documents**

The Bid Documents include this Invitation for Bids, Legal Advertisement Notice, Bid Proposal Pages, Requirements for Bidding and Instructions for Bidders, Standard Terms and Conditions, Special Conditions, Scope of Work and Detailed Specifications, Plans and Drawings (if any), Insurance Requirements, MBE/WBE Special Conditions or DBE Special Conditions (as applicable) and all other exhibits attached hereto, and any and all Clarifications and Addenda issued by the City. Upon the award and execution of a contract pursuant to the Bid Documents, the Bid Documents become the Contract Documents.

### **1.2. Obtaining the Bid Documents**

Bidders are solely responsible for obtaining all Bid Documents, including Clarifications and Addenda.

In the event of a conflict or inconsistency between the Bid Documents obtained on-line and the printed Bid Documents available from the Bid & Bond Room, the terms and conditions of the printed Bid Documents will prevail.

#### **1.2.1. Printed Bid Documents**

Printed copies of Bid Documents are available for pickup from

Bid & Bond Room  
Room 301 City Hall  
121 North LaSalle Street  
Chicago, IL 60602  
Phone # 312-744-9773  
Fax # 312-744-5611

Plans and Drawings may only be available on CD.

#### **1.2.2. Downloadable Bid Documents**

Documents may be downloaded from the DPS' website at the following URL

[www.cityofchicago.org/bids](http://www.cityofchicago.org/bids)

In order to receive notice of clarifications and addenda, Bidders that download the Bid Documents must register as a Bid Document holder by (i) faxing the company's name, contact person, address, e-mail address, telephone number and fax number to the Bid & Bond Room at 312-744-5611 (include specification number and bid title/description) or (ii) by calling the Bid & Bond Room at 312-744-9773.

Bid Document holders are listed on the Bid & Bond Room Opportunity Take Out List. The Opportunity Take Out List is public information and is posted to the DPS web site at [www.cityofchicago.org/TOL](http://www.cityofchicago.org/TOL). To find Opportunity Take Out lists go to "Get Started Online" and search by the specification number.

### **1.3. Clarifications and Addenda**

The City sends out clarifications and addenda to the Bid Documents to entities on the list of registered Bid Document Holders. Additionally, Clarifications and Addenda will be posted at the following URL, and made available at the Bid & Bond Room:

[www.cityofchicago.org/bids](http://www.cityofchicago.org/bids)

Bidders that download Bid Documents from the City of Chicago's website instead of obtaining the Bid Documents from the City of Chicago's Bid & Bond Room and which have not registered as a Bid Document holder are responsible for checking the City of Chicago's website for Clarifications and/or Addenda.

There may be multiple Clarifications and Addenda. Failure to obtain Clarifications and/or Addenda, for whatever cause, will not relieve a Bidder from the obligation to bid according to and comply with any changed or additional terms and conditions contained in the Clarifications and Addenda.

Failure to acknowledge Clarifications and/or Addenda in the Bid Documents when submitting the bid will render the bid non-responsive. Any harm to the bidder resulting from failure to obtain all necessary documents, for whatever cause, will not be valid grounds for a protest against award(s) made under this bid solicitation.

#### **1.4. Examination of the Bid Documents and Work Site**

Bidders are required to carefully examine all of the Bid Documents before completing the forms and submitting a Bid. If the specification calls for work to be performed onsite, Bidders are also required to inspect the site of the work to be performed, and familiarize itself with the conditions at the site that will affect the work.

A Bidder that is awarded a contract will be solely responsible for all costs arising from and associated with that Bidder's (i) failure to comply with the requirements of the Bid Documents, including, without limitation, this requirement to inspect the Bid Documents and site of the work, and (ii) failure to include any costs or expense attributable to site conditions that could have reasonably been discovered through a site inspection or examination of the Bid Documents.

#### **1.5. Pre-Bid Conference and Site Visit**

If a pre-bid conference will be held to answer questions regarding these Bid Documents, it will be held on the date and time stated on the front cover of the Bid Documents. The pre-bid conference may be recorded by DPS.

If a pre-bid conference will be held, attendance is strongly encouraged. The Chief Procurement Officer or his/her representative, as well as representatives from the City Department for which the Bid Documents have been issued will comprise the panel to respond to Bidders' questions.

Bidders must familiarize themselves with the locations for contract performance required by the Bid Documents and take into account all relevant conditions when preparing its Bid. The Contractor will not be paid additional compensation due to failure to account for conditions that may be observed by a site visit in its bid.

If the site for the Work is not accessible to the public during normal business hours, instructions for obtaining access, including a date and time for guided visits, is set out on the cover of the Bid Documents.

#### **1.6. Questions Regarding the Bid Documents; Bidder Inquiry Deadline**

All inquiries regarding this Bid Documents or procurement process must be directed to the Procurement Specialist/Senior Procurement Specialist at the email address listed on the front cover of the Bid Documents. **Inquiries must be submitted via email and MUST include the specification number in the subject line of the email.**

**The Bidder Inquiry Deadline is listed on the front cover of the Bid Documents.** Inquiries received after the Bidder Inquiry Deadline will not be answered except at the discretion of the Chief Procurement Officer

Bidders may only rely on written answers in a Clarification or in an Addendum duly issued by the Chief Procurement Officer. Bidders cannot rely on oral or informal responses, such answers will not be binding upon the City.

#### **1.7. Exceptions**

Any deviations from the specifications must be noted on the Proposal Page(s) or attached thereto, with the exact nature of the change outlined in sufficient detail. Bidder must provide the reason for which deviations were made. Failure of a Bidder to comply with the terms of this paragraph may be cause for rejection of its Bid.

If a Bidder takes exception to other provisions of the specification, the Chief Procurement Officer shall reject the Bid as non-responsive in the event that the Chief Procurement Officer, in his or her sole opinion, determines such exception(s) to be material exception(s)

#### **1.8. Taxes Included in Bid Prices**

Materials purchased by the City of Chicago are not subject to the Federal Excise Tax. The City's Tax Exemption Certificate number is 36-6005820.

Materials purchased by the City of Chicago are not subject to the State of Illinois Sales Tax. The City's Tax Exemption Certificate number is E9998-1874-07.

The Illinois Retailers' Occupation Tax, Use Tax, and Municipal Retailers' Occupation Tax and Chicago Bottled Water Tax do not apply to materials or services purchased by the City of Chicago.

Bidders shall include all other applicable Federal, State and local taxes, direct or indirect, in their Bid prices.

**1.9. Bid Prices Must Incorporate All Costs**

Bidders shall include all other applicable Federal, State and local taxes, direct or indirect, in their Bid prices.

**1.10. Bid Prices Must Incorporate All Costs**

Bid pricing must incorporate any/all peripheral costs including, but not limited to the costs of products/services, delivery/transportation charges, training, materials, labor, insurance, applicable taxes, warranty, overhead and profit, etc. that are required by the Bid Documents.

**1.11. Completion of the Bid Documents**

Each Bidder must complete all of the forms listed on the Bid Submittal Checklist. The forms, including the Bid Proposal Pages, must be completed in ink, or typewritten. Bidders may not change any of the Bid Documents. Any changes made by a Bidder to the Bid Documents may result in rejection of the Bid, and will not be binding upon the City.

Bidders must use the Bid Execution Page that is appropriate for their form of business organization (e.g., sole proprietorship, corporation, partnership, or joint venture). The individual(s) that sign the Bid Execution Page on behalf of the Bidder, by their signature, represents and warrants to the City that such individual is authorized to execute bids and contracts on behalf of the Bidder, and that the Bidder agrees and shall be bound to all of the terms and conditions of the Bid Documents and, upon execution by the City, the Contract Documents. Signatures must be sworn before a Notary Public.

**1.12. Required Forms and Fees**

**1.12.1. Certificate of Filing for Online EDS**

Bidders must complete an online EDS prior to the bid due date. A Bidder who does not file an electronic EDS prior to the bid due date may be found non-responsive and its bid rejected. If you are unable to complete the EDS online and print a Certificate of Filing prior to the response due date, the City will accept a paper EDS provided written justification is provided explaining the Bidders good faith efforts to complete it before the response due date and the reasons why it could not be completed. Refer to the Instructions for Completing Economic Disclosure Statement and Affidavit On-Line.

**1.12.2. MBE/WBE Program**

The goals for MBE and WBE participation are set forth in the Proposal Pages. The rules, regulations, and forms for achieving these goals are set forth in the Special Conditions Regarding Minority Business Enterprise Commitment and Women Business Enterprise Commitment ("M/WBE Special Conditions")

- **Schedule B: Affidavit of Joint Venture (if applicable)**  
If applicable, complete and submit this form if a non-certified firm has formed a joint venture with one or more MBE/WBE certified firms to submit a Bid. Such Affidavit should be signed by the appropriate Joint Venture members and notarized.
- **Schedule C-1**  
If applicable, include a completed Letter of Intent from each certified MBE or WBE that will perform as a Subcontractor, Supplier and/or Consultant. Such letter(s) must be signed and notarized.
- **Schedule D-1**  
If applicable, include the Bidder's Affidavit of MBE/WBE Goal Implementation Plan. This Affidavit must be signed and notarized.

- **Request for a Reduction or Waiver of the MBE/WBE Goals**

If applicable, after making good faith efforts, the Bidder is unable to provide a plan for the utilization of MBE and WBE firms that will achieve compliance with the MBE/WBE goals, the Bidder must, as required by the MBE/WBE Special Conditions, submit a request for whole or partial waiver of the goals with its Bid. Any waiver request must include documentation as required by the M/WBE Special Conditions including but not limited to notification to an assist agency

**1.12.3. Bid Deposits and Bid Bonds**

Bid deposits, if required, may be in the form of a bond, certified check, cashier's check or money order payable to the City of Chicago. Bid bonds must be in the form provided by the Department of Procurement Services, and must be executed by a surety licensed and authorized to do business in the State of Illinois.

Cash is not an acceptable form of Bid Deposit. Substantial failure to comply with bid deposit requirements will result in rejection of the bid. A non-substantial failure to comply with the bid deposit requirement is a failure that does not provide a commercial advantage to the Bidder over other bidders.

Bid deposits will be returned, with the exception of the bid bond deposit for the contract awardee's bid, after the CPO has awarded the contract. The bid bond deposit for the awardee's bid will be returned after the contract has been awarded and a satisfactory Performance and Payment Bond has been approved by the City, where such bond is required.

The Chief Procurement Officer may return bid deposits sooner, but reserves the right to hold all bid deposits until a contract has been awarded or, in the case of multiple awards, all contracts have been awarded for the Bid in question.

If a bid deposit is required, it will be indicated on the front cover of the Bid Documents.

**1.12.4. Performance and Payment Bonds**

If a performance and payment bond is required, failure to provide the required bond within the required time period when requested will result in rejection of the bid and forfeit of the bid deposit, if a deposit was required. The forfeiture shall not limit any other City remedies against the Bidder. Performance and payment bonds must be in the form specified by the City, a specimen of which will be attached to the Bid Documents as an exhibit or available from the Bid & Bond Room.

MCC Section 2-92-040 requires that the surety be listed as a certified surety in the current edition of U.S. Treasury Department Circular 570 and have an underwriting limitation in that publication in an amount equal to or greater than the amount bid. Circular 570 is available at [www.fms.treas.gov/c570](http://www.fms.treas.gov/c570). Co-sureties may be accepted in the sole discretion of the CPO, but each co-surety must individually meet the requirement. Reinsurance may not be used to achieve a sufficient underwriting limitation.

If a performance and payment bond is required to be provided prior to contract award, it will be indicated on the front cover of the Bid Documents.

**1.12.5. Contractor's Financial Statement**

If requested by the Chief Procurement Officer, Bidder must file a "Contractor's Statement of Experience and Financial Condition" dated not earlier than the end of Bidder's last fiscal year period. The "Contractor's Statement of Experience and Financial Condition" will be kept on file as a representative statement for one year. The "Contractor's Statement of Experience and Financial Condition" forms are available in the Bid & Bond Room, City Hall Room 301, Chicago, IL 60602, or may be downloaded at [www.cityofchicago.org/form](http://www.cityofchicago.org/form). Failure to provide a "Contractor's Statement of Experience and Financial Condition" if requested may be cause for rejection of the Bid.

**1.12.6. Other Required Forms and Documents**

Other forms required to be included with the Bid are:

- Insurance Certificate of Coverage
- Affidavit of Chicago Business (if applicable)

- Affidavit of Locally-Manufactured Goods (if applicable)
- Alternatively Powered Vehicles Affidavit (if applicable)
- DBE or MBE/WBE compliance forms as applicable
- Proposal Page(s) (Schedule of Prices)
- Bid Execution Page

### **1.13. Trade Names and Substitutions**

Reference to a specific manufacturer or trade name in this solicitation is intended to be descriptive (but not restrictive) and to indicate to prospective bidders those product(s) that have been deemed by the City to be satisfactory. The Bidder must, if awarded the Contract, provide the product(s) specified, unless equivalent alternatives have been proposed as described below and found acceptable to the Chief Procurement Officer.

A Bidder that chooses to respond to this solicitation for bids with alternate product(s) from those specified in the solicitation, must identify such alternate items with its Bid with a detailed explanation and documentation in support of how the alternate items proposed by the Bidder can perform as well as or better than those specified. Unless an alternate item is so identified, it is understood that the Bidder proposes, and will be required to provide, the specific item described in the specifications. No substitution of specified items will be allowed thereafter except as otherwise provided for in the specifications.

Documentation in support of alternate items includes:

- 1) Complete data substantiating compliance of proposed alternate items with requirements stated in the solicitation, including:
  - a) Product identification, including manufacturer's name and address.
  - b) Manufacturer's literature identifying:
    - i) Product description
    - ii) Reference standards
    - iii) Performance and test data
  - c) Samples, as applicable
  - d) Name and address of similar projects on which the product has been used, and date of usage.
- 2) Itemized comparison of the proposed alternate item with product or service specified, listing significant variations.

A Bidder warrants and represents that in making a formal request for substitution with alternate items that

- 1) The proposed alternate item is equivalent to or superior in all respects to the product specified, and
- 2) The same warranties and guarantees will be provided for the alternate item as for the product specified.

The CPO may, in his or her sole discretion, accept an alternate item for a specified item, provided the alternate item so bid is, in the CPO's sole opinion, the equivalent of the item specified in the solicitation. An alternate item that the CPO determines not to be equivalent to the specified item shall render the bid non-responsive and the CPO shall reject the bid.

### **1.14. Authorized Dealer/Distributor**

For bids involving the furnishing of equipment or other goods that are subject to manufacturer warranties that require sale or installation by authorized dealers or distributors, the Contractor must be the manufacturer or an authorized dealer/distributor of the proposed manufacturer and be capable of providing genuine parts, assemblies and/or accessories as supplied by the manufacturer. Further, the Contractor must be capable of furnishing original product warranty and manufacturers related services such as product information, product recall notices, etc. The Bid Documents will typically ask the Bidder to certify that it is an



authorized dealer/distributor when this requirement is applicable. The Bidder's compliance with these requirements will be determined by the CPO, whose decision will be binding.

#### **1.15. Estimated Quantities**

Unless explicitly stated to the contrary in the Scope of Work, Detailed Specifications, or Proposal pages, any quantities shown on the Proposal Pages represent estimated usage and as such are for bid canvassing purposes only. The City reserves the right to increase or decrease quantities ordered. Nothing herein will be construed as intent on the part of the City to procure any goods or services beyond those determined by the City to be necessary to meet its needs.

The City will only be obligated to order and pay for such quantities as are from time to time ordered, performed and accepted on Blanket Releases issued directly by the Department.

#### **1.16. Submission of Bids**

##### **1.16.1. Date, Time, and Place**

Bids are to be delivered to the Bid & Bond Room of the Department of Procurement Services, City Hall Room 301, 121 North LaSalle Street, Chicago, Illinois 60602 on the date and prior to the time stated on the cover of the Bid Documents, or any addendum issued by the City to change such date and/or time. No bid will be accepted after the date and time specified. The time of the receipt of the bid will be determined solely by the clock located in the Bid & Bond Room.

Bids must be dropped off in the Bid & Bond Room during regular business hours: 8:30 am to 4:30 pm, Monday through Friday, excluding Holidays of the City.

##### **1.16.2. Bids Must Be Sealed and Properly Labeled**

All Bids must be submitted in sealed envelopes. The Department of Procurement Services provides official bid enclosure envelopes at the Bid & Bond Room. Use of official envelopes is not required but is preferred.

All envelopes containing Bids must be marked "Bid Enclosed," and must have the Bidder's name and address, the Specification Number, and the advertised date and time of bid opening stated on the envelope. Failure to properly mark the envelope may result in a failed delivery, and result in rejection of the Bid. If more than one envelope is needed to submit the Bid, each envelope must be marked with all the information required above and be marked to indicate that the envelopes belong together (e.g., one of three, two of three).

##### **1.16.3. Bidders Are Responsible for Bid Delivery**

Each Bidder is solely and completely responsible for delivery of its Bid to the Bid & Bond Room before the date and time established for the Bid opening. Any Bid that is not delivered on time, including Bids mistakenly delivered to other City offices, will not be accepted. The City is under no obligation to ensure that misdirected Bids are delivered to the Bid & Bond Room prior to Bid opening.

When bids are sent via U.S. Postal Service, messenger, printing service or any other carrier, Bidder is responsible for their delivery and drop-off to the correct location during business hours before the date and hour set for the opening of bids. It is Bidder's sole responsibility to ensure the Bid is delivered to the correct location and received as required.

Bids are not to be delivered after hours by pushing them under the door.

##### **1.16.4. Transparency Website; Trade Secrets**

Consistent with the City's practice of making available all information submitted in response to a public procurement, all bids, any information and documentation contained therein, any additional information or documentation submitted to the City as part of this solicitation, and any information or documentation presented to City as part of negotiation of a contract or other agreement may be made publicly available through the City's Internet website.

However, Bidders may designate those portions of a Bid which contain trade secrets or other proprietary data ("Data") which Bidder desires remain confidential.

To designate portions of a Bid as confidential, Bidder must

A. Mark the cover page as follows. "This bid includes trade secrets or other proprietary data."

B. Mark each sheet or Data to be restricted with the following legend: "Confidential. Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this bid."

C. Provide a CD-ROM with a redacted copy of the entire bid or submission in .pdf format for posting on the City's website. Bidder is responsible for properly and adequately redacting any Data which Bidder desires remain confidential. If entire pages or sections are removed, they must be represented by a page indicating that the page or section has been redacted. Failure to provide a CD-ROM with a redacted copy may result in the posting of an un-redacted copy

Indiscriminate labeling of material as "Confidential" may be grounds for deeming a bid as non-responsive.

All Bids submitted to the City are subject to the Freedom of Information Act. The City will make the final determination as to whether information, even if marked "confidential," will be disclosed pursuant to a request under the Freedom of Information act, valid subpoena, or other legal requirement. Bidder agrees not to pursue any cause of action against the City with regard to disclosure of information.

#### **1.17. Withdrawal of Bids**

Bidders may withdraw their Bid at any time prior to the date and time for Bid opening. Requests for withdrawal must be made in writing on the Bidder's letterhead to the Bid & Bond Room. Bidders must make their own arrangements for the return of their Bids.

#### **1.18. Bid Opening**

Bids will be opened and read publicly in the Bid & Bond Room by the Department of Procurement Services immediately after the deadline for the submission of Bids has passed. Announcement of the Bids and the apparent low Bidder are neither final nor binding. All Bids and Bid Documents are subject to review by the Department of Procurement Services to determine the lowest responsive and responsible bidder and whether a contract will be awarded.

Bid tabulations are public information and are posted on the City's website [www.cityofchicago.org/BidTab](http://www.cityofchicago.org/BidTab). URL is case sensitive. Select "Get Started Online" and search by specification number

#### **1.19. Effective Term of Bid**

Unless a Bid is expressly rejected by the Chief Procurement Officer, all Bids will remain in effect for ninety (90) days subsequent to the Bid opening. The City may request that Bidders extend the effective period of their Bids. Such requests shall be in writing, and will require the Bidders' written consent to the extension.

Bidder may not withdraw or cancel or modify its Bid for a period of ninety (90) calendar days after the advertised closing time for the receipt of Bids. The City reserves the right to withhold and deposit, as liquidated damages, the bid deposit of any bidder requesting withdrawal, cancellation or modification of its Proposal prior to the ninety (90) day period.

#### **1.20. Evaluation of Bids**

##### **1.20.1. Determination of Responsiveness**

DPS will review Bids to determine whether they conform to the requirements of the Bid Documents.

##### **1.20.1.1. Must Bid All Line Items**

The Bidder must bid all Line Items set forth on the Proposal Pages, except to the extent that the Specification expressly allows otherwise. Bids submitted to the contrary will be considered incomplete and as a result, will be rejected as being non-responsive to this requirement.

Per the Basis of Award, if Contract(s) will be awarded per Group, Bidders must bid all items within a Group, except to the extent that the Specification expressly allows otherwise, but Bidders are not required to bid all Groups. Bids submitted to the contrary will be considered incomplete and as a result, will be rejected as being non-responsive to this requirement

**1.20.1.2. Mathematical Calculations**

The Chief Procurement Officer reserves the right to make corrections, after receiving the bids, to any clerical error apparent on the face of the bid, including but not limited to obviously incorrect units or misplaced decimal points, or arithmetic errors. In the event that comparison of the Bidder's "Unit Price" and "Total Price" submitted for any line item reveals a calculation error, the Unit Price will prevail.

**1.20.1.3. Unbalanced Bids**

The Chief Procurement Officer reserves the right to reject any Bid that, in his or her sole discretion and authority, determines is materially unbalanced.

**1.20.1.4. Cash Billing Terms**

Cash billing discounts offered will not be considered in the evaluation of bids.

**1.20.2. Determination of Responsibility**

The determination of the responsibility of a Bidder is within the sole discretion and authority of the Chief Procurement Officer.

The Chief Procurement Officer may request any Bidder to submit such additional information pertaining to the Bidder's responsibility as the Chief Procurement Officer deems necessary. Failure to comply with any such request will result in a finding of non-responsibility and rejection of the Bid.

**1.20.2.1. Bidder Debts or Defaults**

The Chief Procurement Officer reserves the right to refuse to award a Contract to any bidder that is in arrears or is in default to the City upon any debt or contract, or that is a defaulter, as surety or otherwise, upon any obligation to the City, or has failed to perform faithfully any previous contract with the City.

**1.20.2.2. Competency of Bidder**

The Bidder, if requested, must present within a reasonable time, as determined by the Chief Procurement Officer, evidence satisfactory to the Chief Procurement Officer of ability to perform the Contract and possession of necessary facilities, pecuniary resources and adequate insurance to comply with the terms of these specifications and contract documents.

**1.21. Rejection of Bids and Waiver of Informalities**

The Chief Procurement Officer, in his/her sole discretion and authority, may determine that it is in the best interest of the City to reject any or all Bids submitted in response to any Invitation for Bids. The Chief Procurement Officer, in his/her sole discretion and authority, may disregard or waive any informality in the Bids or bidding process.

**1.22. Statutory Adjustments to the Bid**

**1.22.1. City-based Businesses (Chicago Business Preference)**

For purposes of this section only, the following definitions shall apply:

"City-based business" means a person who (i) conducts meaningful day-to-day business operations at a facility located within the city and reports such facility to the Internal Revenue Service as a place of employment for the majority of its regular, full-time workforce; (ii) holds any appropriate city license; and (iii) is subject to applicable city taxes.

"Contract" means any contract, purchase order or agreement awarded by the city and whose cost is to be paid from funds belonging to or administered by the city; provided that a contract does not include (i) a delegate agency contract, (ii) a lease of real property; or (iii) a collective bargaining agreement

"Prime Contractor" means a person who is a city-based business and the primary contractor on a contract. A "Prime Contractor" does not include any subcontractors.

If these Bid Documents pertain to a Contract having an estimated contract value of \$100,000 or more, the CPO may apply a bid preference ("City Based Business Preference") of two percent of the contract base bid, in accordance with section 2-92-412 of the MCC, to any qualified bidder that is a prime

contractor. If the CPO has determined that a City Based Business Preference may be applied, it will be indicated on the cover page of the Bid Documents.

If a City Based Business Preference is applied to a Bidder's Bid, the Local Goods Incentive pursuant to Section 2-92-410 will not be applied to that same Bid

Bidders desiring to take advantage of the City Based Business Preference must submit documentation with their Bid that Bidder is a City-Based Business.

#### **1.22.2. Locally Manufactured Goods**

For purposes of this section only, the following definitions shall apply.

"City-based manufacturer" means a person who: (i) holds any appropriate city license; (ii) is subject to applicable city taxes; and (iii) owns, operates, or leases a manufacturing facility within the city.

"Contract for goods" means any contract, purchase order or agreement for the purchase of goods awarded by the city and whose cost is to be paid from funds belonging to or administered by the city; provided that a "contract" does not include: (i) a delegate agency contract; (ii) a lease of real property, (iii) a collective bargaining agreement, or (iv) a construction contract as defined in Section 2-92-670.

"Locally manufactured goods" means goods whose value, either in whole or in part, is derived from growing, producing, processing, assembling, or manufacturing activities that occur within a city-based manufacturer's facility located within the city.

"Manufacture" means to produce tangible goods for use from raw or prepared materials by giving the materials new forms, qualities, properties or combinations, whether by hand-labor or machines.

If these Bid Documents pertain to a Contract for Goods having an estimated contract value of \$100,000 or more, the CPO may allocate a bid incentive ("Local Goods Incentive") in accordance with section 2-92-410 of the MCC. If the CPO has determined that a Local Goods Incentive will be allocated, it will be indicated on the cover page of the Bid Documents and shall consist of the following:

Total Dollar Value of Locally Manufactured Goods Provided in the Contract	Bid Incentive
25% to 49%	1% of the contract base bid
50% to 74%	1.5% of the contract base bid
75% or greater	2% of the contract base bid

Bidders desiring to take advantage of the Local Goods Incentive, if allocated, must submit documentation with their bid that the goods to be provided will be locally manufactured goods

Upon completion of the work, any contractor that has failed to supply the required percentage of locally manufactured goods for which the Local Goods Incentive was allocated shall be fined in an amount equal to three times the amount of the difference between the bid incentive allocated and the bid incentive that would have been allocated to that contractor for the amount of locally manufactured goods actually supplied under the contract, unless the contractor can demonstrate that due to circumstances beyond the contractor's control, the contractor for good cause was unable to provide the required percentage of locally manufactured goods.

#### **1.22.3. Alternatively Powered Vehicles Bid Incentive**

##### **1.22.3.1. Definitions for Alternatively Powered Vehicles Bid Incentive**

For purposes of this Section 1.22.3 only, the following definitions apply

"Alternative fuel" has the meaning ascribed to that term in the Energy Policy Act of 1992, and the rules promulgated by the United States Department of Energy pursuant to that Act. The term

"alternative fuel" includes but is not limited to natural gas, liquefied petroleum gas, hydrogen, ethanol E85 or electricity,

"Alternatively powered vehicle" means a vehicle that:

(A) is fueled by alternative fuel; provided that if a vehicle is capable of being powered by alternative fuel and traditional petroleum-based gasoline or petroleum-based diesel fuel, the vehicle must be powered by the alternative fuel for no less than 80% BTUs consumed during the three months prior to the submission of the bid; or

(B) is commonly referred to as a hybrid vehicle that is capable of being powered by a combination of any fuel and an alternative power source and the alternative power source includes an energy storage system to store generated or accumulated energy which substantially reduces the fuel use and emissions when compared to a standard vehicle of the same age, type and size; or

(C) is fueled by a biodiesel blend, provided that the vehicle is powered by the biodiesel blend for no less than 80% of the gallons consumed during the three months prior to the submission of the bid; or

(D) is fueled by traditional petroleum-based gasoline or petroleum-based diesel fuel, but powered by an engine substantially more efficiently designed than a standard vehicle of the same age, type and size, provided that the vehicle is rated by the United States Environmental Protection Agency in the top 5% for fuel efficiency for similar vehicles.

An "alternatively powered vehicle" does not include any vehicle which is: (i) primarily used in a warehouse or similar type of enclosed structure; (ii) required to use, or given credit for using, alternative fuel by any federal, state or local law; or (iii) subject to Section 2-92-595 of the Municipal Code of Chicago.

"Bid incentive" means an amount deducted, for bid evaluation purposes only, from the contract base bid in order to calculate the bid price to be used to evaluate the bid on a competitively bid contract.

"Biodiesel blend" has the meaning ascribed to that term in Section 2-92-595 of the Municipal Code of Chicago.

"Construction project" has the meaning ascribed to that term in Section 2-92-335 of the Municipal Code of Chicago.

"Contract" means any contract, purchase order, construction project, or other agreement (other than a delegate agency contract or lease of real property or collective bargaining agreement) awarded by the city and whose cost is to be paid from funds belonging to or administered by the city.

"Contract base bid" means the total dollar amount a contractor bids on a contract without factoring any bid incentive or percentage reductions in the bid amount

"Eligible business" means a business located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois (the "Six County Region"), and as to which: (1) a majority of the business' fleet is located and used within the Six County Region; and (2) a majority of those vehicles located and used within the Six County Region are alternatively powered vehicles.

"Fleet" means 10 or more vehicles that are owned, operated, leased or otherwise controlled by a business.

"Vehicle" means every device powered by a motor or engine and by, upon, or in which any person or property is or may be transported or drawn upon a street or highway, except a "vehicle" shall not include motorized wheelchairs, golf carts, neighborhood electric vehicles, as that term is defined in Section 9-4-010 of the Municipal Code of Chicago, devices moved solely by human power, devices

used exclusively upon stationary rails or tracks, or snowmobiles, as defined in the Snowmobile Registration and Safety Act of Illinois.

**1.22.3.2. Eligibility for Alternately Powered Vehicles Bid Incentive**

(A) Unless otherwise prohibited by any federal, state or local law, for any contract having an estimated contract value of \$100,000 or more advertised, or if not advertised awarded, the chief procurement officer may allocate a bid incentive of 1/2% of the contract base price to a qualified bidder when the qualified bidder is an eligible business. If the CPO has determined that an Alternately Powered Vehicles Preference may be applied, it will be indicated on the cover page of the Bid Documents.

The bid incentive is used only to calculate an amount to be used in evaluating the bid to determine the low bidder, and it does not affect the contract price.

For purposes of this section the total dollar value of a construction project contract includes both materials and labor

(B) As a condition of being awarded the bid incentive, the eligible business shall continue to meet the definition of an eligible business during the term of the contract.

(C) The contractor shall maintain adequate records necessary to monitor compliance with this section and shall submit such reports as required by the chief procurement officer. Full access to the contractor's and subcontractors' records shall be granted to the chief procurement officer, the commissioner of the supervising department, the inspector general, or any duly authorized representative thereof. The contractor and subcontractors shall maintain all relevant records for a period of no less than seven years after final acceptance of the work.

(D) A bidder desiring to receive an incentive pursuant to this section shall include with its bid submission the *Affidavit of Eligible Business for Bid Incentive for Alternative Powered Vehicles*, which affirms that the bidder satisfies all pertinent requirements as an eligible business.

(E) Upon completion of the work, any eligible business that receives a bid preference but that fails to meet the definition as an eligible business during the term of the contract shall be fined in an amount equal to three times the amount of the bid incentive awarded.

(F) This section shall not apply to any contract to the extent that the requirements imposed by this section are inconsistent with procedures or standards required by any law or regulation of the United States or the State of Illinois to the extent such inconsistency is not permitted under law or the home rule powers of the city.

**1.22.4. Child Support Arrearage**

Pursuant to Section 2-92-415 of the MCC, an eight percent (8%) penalty will be applied to the Bids of Bidders whose substantial owners, as defined in the Code, are in arrears on court-ordered child support payments and who have not entered into an agreement for payment or are otherwise not in compliance with the order. The penalty will pertain to the Bid only, and will not affect the Contract Price or payments under the Contract.

**1.22.5. MacBride Principles Ordinance**

If the Bidder conducts any business operations in Northern Ireland, it is hereby required that the Bidder will make reasonable and good faith efforts to conduct those operations in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 and Section 2-92-580 of the Municipal Code to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland.

Bidders who take exception to the provision set forth above will be assessed an eight percent (8%) penalty on their Bids. The penalty will pertain to the Bid only, and will not affect the Contract Price or payments under the Contract.

**1.23. Consideration of Bids**

The CPO represents and acts for the City in all matters pertaining to this invitation for bids and any contract subsequently awarded. The CPO reserves the right to reject any and all bids and to disregard any informalities in a bid or the bidding process, when in his/her opinion the best interest of the City will be served by such action

**1.24. Bid Protests**

The bidder shall submit any protests or claims regarding this solicitation to the office of the City's Chief Procurement Officer located at City Hall Room 806, 121 North LaSalle Street, Chicago, Illinois 60602. A pre-bid protest must be filed no later than the five calendar days before the bid opening date, a pre-award protest must be filed no later than ten calendar days after the bid opening date, and a post-award protest must be filed no later than ten calendar days after the award of the contract.

All protests or claims must set forth the name and address of the protester, the specification number, the grounds for the protest or claim, and the course of action that the protesting party desires that the CPO undertake.

Copies of the Bid Protest Procedures (entitled Department of Procurement Services Solicitations and Contracting Process Protest Procedures) are available at the Bid & Bond Room and on DPS' website [www.cityofchicago.org/procurement](http://www.cityofchicago.org/procurement) under "Rules, Regulations and Ordinances" then under "Contract Rules and Regulations."

**1.25. Award of Contract; Notice of Award**

The Contract consists of the Bid Documents. Upon the award and execution of a contract pursuant to the Bid Documents, the Bid Documents become the Contract Documents, which collectively comprise the Contract

The Department of Procurement Services will, by written notice, notify the Bidder that is, per the Basis of Award, the lowest responsive and responsible Bidder of the City's award of a Contract.

**ARTICLE 2. INCORPORATION OF EXHIBITS**

The following attached Exhibits are made a part of this agreement

- Exhibit 1. Example Insurance Certificate of Coverage



### **ARTICLE 3. STANDARD TERMS AND CONDITIONS**

#### **3.1. General Provisions**

##### **3.1.1. Definitions**

**"Addendum"** is an official revision of the Bid Documents issued by the Chief Procurement Office prior to Bid Opening Date.

**"Airports"** means Chicago O'Hare International Airport and Chicago Midway International Airport.

**"Airside"** means, generally, those areas of an Airport which requires a person to pass through a security checkpoint to access. References to "sterile areas" generally mean Airside areas within terminal buildings. References to "Airfield", "Aircraft Operations Area", "AOA", or "Secured areas" generally mean outdoor Airside areas or areas not accessible to passengers.

**"Attachments"** are all the exhibits and other documents attached to the Bid Documents and/or incorporated into the Contract by reference.

**"Bid"** refers to an offer made by a Bidder in response to an invitation for bids which includes a binding proposal to perform the Contract which the City may rely on and accept, or in the case of an RFP or RFQ, the submission/proposal in response to that solicitation which may be subject to negotiation.

**"Bidder"** is a person, firm, or entity submitting a Bid in response to an invitation for bids, for RFPs and RFQs, references may be made to "Respondents." Once the Contract is awarded the Contractor shall assume that all references to a Bidder or Respondent and such attendant obligations apply to the Contractor.

**"Bid Opening Date"** is the date and time publicly advertised by the Chief Procurement Officer as the deadline for submission of Bids; this may be referred to as a "Proposal Due Date" for RFP and RFQ solicitations

**"Bid Documents"** means all the documents issued by the Chief Procurement Officer, or referenced by the Chief Procurement Officer as being available on the City's website and incorporated by such reference, in connection with an invitation for bids or proposals. Except for such Bid Documents as are posted on the City's website and incorporated by reference, all Bid Documents must be submitted by a bidder on the Bid Opening Date

**"Business Day"** means business days (Monday through Friday, excluding legal holidays, or City shut-down days) in accordance with the City of Chicago business calendar.

**"Calendar Day"** means all calendar days in accordance with the world-wide accepted calendar.

**"Chief Procurement Officer"** abbreviated as "CPO" means the chief executive of the City's Department of Procurement Services ("DPS"), and any representative duly authorized in writing to act on the Chief Procurement Officer's behalf.

**"City"** means the City of Chicago, a municipal corporation and home rule government under Sections 1 and 6(a), Article VII, of the 1970 Constitution of the State of Illinois.

**"Commissioner"** means the chief executive of any City department that participates in this Contract (regardless of the actual title of such chief executive), and any representative duly authorized in writing to act on the Commissioner's behalf with respect to this Contract

**"Contact Person"** means the Contractor's management level personnel who will work as liaison between the City and the Contractor and be available to respond to any problems that may arise in connection with Contractor's performance under the Contract.

**"Contract"** means, upon notice of award from the CPO, the contract consisting of all Bid Documents relating to a specific invitation for bids or proposals, and all amendments, modifications, or revisions made from time to time in accordance with the terms thereof All such documents comprising the Contract are referred to as the "Contract Documents"

**"Contractor"** means the Bidder or Proposer (person, firm, or entity) that is awarded the Contract by the CPO. Any references to the Bidder or Proposer in the Contract Documents is understood to apply to the Contractor.

**"Department"** which may also be referred to as the using/user Department is the City Department which appears on the applicable Purchase Order Release for goods, work, or services provided under this Contract.

**"Detailed Specifications"** refers to the contract specific requirements that includes but is not limited to a detailed description of the scope, term, compensation, price escalation, and such other additional terms and conditions governing this specific Contract.

**"Force Majeure Event"** means an event beyond the reasonable control of a party to this Contract, which is limited to acts of God, explosion, acts of the public enemy, fires, floods, earthquakes, tornadoes, epidemics, quarantine restrictions, work stoppages not caused or unmitigated by the Contractor.

**"Holidays"** refers to the official City Holidays when the City is generally closed for business which includes: New Year's Day, Dr. Martin Luther King Jr.'s Birthday, Lincoln's Birthday, President's Day, Pulaski Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas Day.

**"MCC"** is the abbreviation for the Municipal Code of Chicago

**"Party"** or collectively **"Parties"** refers to the entities that have entered into this Contract including the Contractor and the City.

**"Purchase Order"** means a written purchase order from a Department referencing this Contract. Purchase Orders may also be referred to as "Blanket Releases".

**"Services"** refers to all work, services, and materials whether ancillary or as required by the Detailed Specifications that Contractor provides in performance of its obligations under this Contract.

**"Specification"** means the Bid Documents, including but not limited to the Detailed Specifications.

**"Subcontractor"** means any person or entity with whom the Contractor contracts to provide any part of the goods, services or work to be provided by Contractor under the Contract, including subcontractors of any tier, suppliers and material men, whether or not in privity with the Contractor.

### **3.1.2. Interpretation of Contract**

#### **3.1.2.1. Order of Precedence**

The order of precedence of the component contract parts will be as follows:

- Addenda, if any
- Detailed Specifications / Scope
- Plans or drawings, if any
- Special Conditions
- Supplemental Special Conditions, if any
- Insurance Requirements
- MBE/WBE/DBE Special Conditions, if any
- Standard Terms and Conditions
- Invitation to bid and proposal (bid) pages, if applicable

#### **3.1.2.2. Interpretation and Rules**

Unless a contrary meaning is specifically noted elsewhere, the phrases "as required", "as directed", "as permitted", and similar words mean the requirements, directions, and permissions of the Commissioner or CPO, as applicable. Similarly, the words "approved", "acceptable", "satisfactory", and similar words mean approved by, acceptable to, or satisfactory to the Commissioner or the CPO, as applicable.

The words "necessary", "proper", or similar words used with respect to the nature or extent of work or services mean that work or those services must be conducted in a manner, or be of a character which is necessary or proper for the type of work or services being provided in the opinion of the Commissioner and the CPO, as applicable. The judgment of the Commissioner and the CPO in such matters will be considered final.

Wherever the imperative form of address is used, such as "provide equipment required" it will be understood and agreed that such address is directed to the Contractor unless the provision expressly states that the City will be responsible for the action.

#### **3.1.2.3. Severability**

The invalidity, illegality, or unenforceability of any one or more phrases, sentences, clauses, or sections in this Contract does not affect the remaining portions of this Contract.

#### **3.1.2.4. Entire Contract**

The Contract Documents constitute the entire agreement between the parties and may not be modified except by the subsequent written agreement of the parties.

### **3.1.3. Subcontracting and Assignment**

#### **3.1.3.1. No Assignment of Contract**

Pursuant to 65 ILCS 8-10-14, Contractor may not assign this Contract without the prior written consent of the CPO. In no case will such consent relieve the Contractor from its obligations, or change the terms of the Contract. The Contractor must notify the CPO, in writing, of the name of any proposed assignee and the reason for the assignment, consent to which is solely in the CPO's discretion.

#### **3.1.3.2. Subcontracts**

No part of the goods, work, or services to be provided under this Contract may be subcontracted without the prior written consent of the CPO; but in no case will such consent relieve the Contractor from its obligations, or change the terms of the Contract. The Contractor must notify the CPO of the names of all Subcontractors to be used and shall not employ any that the CPO has not approved. Prior to proposing the use of a certain Subcontractor, the Contractor must verify that neither the Subcontractor nor any of its owners is debarred from or otherwise ineligible to participate on City contracts. This information can be found on the City's website:

[http://www.cityofchicago.org/city/en/depts/dps/provdrs/comp/svcs/debarred\\_firms\\_list.html](http://www.cityofchicago.org/city/en/depts/dps/provdrs/comp/svcs/debarred_firms_list.html)

Subcontracting of the services or work or any portion of the Contract without the prior written consent of the CPO is null and void. Further, the Contractor will not make any substitution of a previously approved Subcontractor without the prior written consent of the CPO; any substitution of a Subcontractor without the prior written consent of the CPO is null and void.

The Contractor will only subcontract with competent and responsible Subcontractors. If, in the judgment of the Commissioner or the CPO, any Subcontractor is careless, incompetent, violates safety or security rules, obstructs the progress of the services or work, acts contrary to instructions, acts improperly, is not responsible, is unfit, is incompetent, violates any laws applicable to this Contract, or fails to follow the requirements of this Contract, then the Contractor will, immediately upon notice from the Commissioner or the CPO, discharge or otherwise remove such Subcontractor and propose an acceptable substitute for CPO approval.

#### **3.1.3.3. No Pledging or Assignment of Contract Funds Without City Approval**

The Contractor may not pledge, transfer, or assign any interest in this Contract or contract funds due or to become due without the prior written approval of the CPO. Any such attempted pledge, transfer, or assignment, without the prior written approval of the CPO is void as to the City and will be deemed an event of default under this Contract.

#### **3.1.3.4. City's Right to Assign**

The City expressly reserves the right to assign or otherwise transfer all or any part of its interests in this Contract without the consent or approval of the Contractor.

**3.1.3.5. Assigns**

All of the terms and conditions of this Contract are binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, transferees, and assigns.

**3.1.4. Contract Governance**

**3.1.4.1. Governing Law and Jurisdiction**

This Contract will be governed in accordance with the laws of the State of Illinois, without regard to choice of law principles. The Contractor hereby irrevocably submits, and will cause its Subcontractors to submit, to the original jurisdiction of those State or Federal courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Contract and irrevocably agrees to be bound by any final judgment rendered thereby from which no appeal has been taken or is available. The Contractor irrevocably waives any objection (including without limitation any objection of the laying of venue or based on the grounds of forum non conveniens) which it may now or hereafter have to the bringing of any action or proceeding with respect to this Contract in the jurisdiction set forth above.

**3.1.4.2. Consent to Service of Process**

The Contractor agrees that service of process on the Contractor may be made, at the option of the City, either by registered or certified mail addressed to the applicable office as provided for in this Contract, by registered or certified mail addressed to the office actually maintained by the Contractor, or by personal delivery on any officer, director, or managing or general agent of the Contractor. The Contractor designates and appoints the representative identified on the signature page hereto under the heading "Designation of Agent for Service Process", as its agent in Chicago, Illinois, to receive on its behalf service of all process (which representative will be available to receive such service at all times), such service being hereby acknowledged by such representative to be effective and binding service in every respect. Said agent may be changed only upon the giving of written notice by the Contractor to the City of the name and address of a new Agent for Service of Process who works within the geographical boundaries of the City of Chicago. Nothing herein will affect the right to serve process in any other manner permitted by law or will limit the right of the City to bring proceedings against the Contractor in the courts of any other jurisdiction.

**3.1.4.3. Cooperation by Parties and between Contractors**

The Parties hereby agree to act in good faith and cooperate with each other in the performance of this Contract. The Contractor further agrees to implement such measures as may be necessary to ensure that its staff and its Subcontractors will be bound by the provisions of this Contract. The City will be expressly identified as a third party beneficiary in the subcontracts and granted a direct right of enforcement thereunder.

Unless otherwise provided in Detailed Specifications, if separate contracts are let for work within or adjacent to the project site as may be further detailed in the Contract Documents, each Contractor must perform its Services so as not to interfere with or hinder the progress of completion of the work being performed by other contractors

Each Contractor involved shall assume all liability, financial or otherwise, in connection with its contract, and shall protect and hold harmless the City from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced by the Contractor because of the presence and operations of other contractors working within the limits of its work or Services. Each Contractor shall assume all responsibility for all work not completed or accepted because of the presence and operations of other contractors

The Contractor must as far as possible, arrange its work and space and dispose of the materials being used, so as not to interfere with the operations of the other contractors within or adjacent to the limits of the project site.

**3.1.4.4. No Third Party Beneficiaries**

The parties agree that this Contract is solely for the benefit of the parties and nothing herein is intended to create any third party beneficiary rights for subcontractors or other third parties.

**3.1.4.5. Independent Contractor**

This Contract is not intended to and does not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind between Contractor and the City. The rights and the obligations of the parties are only those set forth in this Contract. Contractor must perform under this Contract as an independent contractor and not as a representative, employee, agent, or partner of the City.

This Contract is between the City and an independent contractor and, if Contractor is an individual, nothing provided for under this Contract constitutes or implies an employer-employee relationship such that.

The City will not be liable under or by reason of this Contract for the payment of any workers' compensation award or damages in connection with the Contractor performing the Services required under this Contract

Contractor is not entitled to membership in any City Pension Fund, Group Medical Insurance Program, Group Dental Program, Group Vision Care, Group Life Insurance Program, Deferred Income Program, vacation, sick leave, extended sick leave, or any other benefits ordinarily provided to individuals employed and paid through the regular payrolls of the City.

The City is not required to deduct or withhold any taxes, FICA or other deductions from any compensation provided to Contractor

**3.1.4.6. Authority**

Execution of this Contract by the Contractor is authorized and signature(s) of each person signing on behalf of the Contractor have been made with complete and full authority to commit the Contractor to all terms and conditions of this Contract, including each and every representation, certification, and warranty contained herein, attached hereto and collectively incorporated by reference herein, or as may be required by the terms and conditions hereof. If other than a sole proprietorship, Contractor must provide satisfactory evidence that the execution of the Contract is authorized in accordance with the business entity's rules and procedures.

**3.1.4.7. Joint and Several Liability**

In the event that Contractor, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination thereof), then and in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by Contractor will be the joint and several obligation or undertaking of each such individual or other legal entity.

**3.1.4.8. Notices**

All communications and notices to the City from the Contractor must be faxed, delivered personally, electronically mailed or mailed first class, postage prepaid, to the Commissioner of the using Department that appears on the applicable Purchase Order, with a copy to the Chief Procurement Officer, Room 806, City Hall, 121 N. LaSalle Street, Chicago, Illinois 60602.

A copy of any communications or notices to the City relating to Contract interpretation, a dispute, or indemnification obligations shall also be sent by the same means set forth above to the Department of Law, Room 600, City Hall, 121 N LaSalle Street, Chicago, Illinois 60602.

All communications and notices from the City to the Contractor, unless otherwise provided for, will be faxed, delivered personally, electronically mailed or mailed first class, postage prepaid, to the Contractor care of the name and to the address listed on the Bid Documents' proposal page.

**3.1.4.9. Amendments**

Following Contract award, no change, amendment, or modification of the Contract Documents or any part thereof, is valid unless stipulated in writing and signed by the Contractor, Mayor, CPO, and Comptroller, unless specifically allowed for by the Contract Documents.

**3.1.4.10. No Waiver of Legal Rights**

Neither the acceptance by the City, or any representative of the City, nor any payment for or acceptance of the whole or any part of the deliverables, nor any extension of time, nor any possession taken by the City, shall operate as a waiver by the City of any portion of the Contract, or of any power herein reserved or any right of the City to damages herein provided.

A waiver of any breach of the Contract shall not be held to be a waiver of any other or subsequent breach. Whenever under this Contract the City by a proper authority waives the Contractor's performance in any respect or waives a requirement or condition to either the City's or the Contractor's performance, the waiver so granted, whether express or implied, shall only apply to the particular instance and will not be deemed a waiver forever or for subsequent instance of the performance, requirement, or condition. No such waiver shall be construed as a modification of this Contract regardless of the number of time the City may have waived the performance, requirement, or condition.

**3.1.4.11. Non-appropriation of Funds**

Pursuant to 65 ILCS 5/8-1-7, any contract for the expenditure of funds made by a municipality without the proper appropriation is null and void

If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for payments to be made under this Contract, then the City will notify the Contractor of that occurrence and this Contract shall terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Contract are exhausted.

No payments will be made to the Contractor under this Contract beyond those amounts appropriated and budgeted by the City to fund payments under this Contract.

**3.1.4.12. Participation By Other Government Agencies**

Other Local Government Agencies (defined below) may be eligible to participate in this Contract if (a) such agencies are authorized, by law or their governing bodies, to execute such purchases, (b) such authorization is consented to by the City of Chicago's CPO, and (c) such purchases have no net adverse effect on the City of Chicago and result in no diminished services from the Contractor to the City's Departments.

Examples of such Local Government Agencies are: the Chicago Board of Education, Chicago Park District, City Colleges of Chicago, Chicago Transit Authority, Chicago Housing Authority, Chicago Board of Elections, Metropolitan Pier and Exposition Authority (McCormick Place, Navy Pier), and the Municipal Courts

Said purchases will be made upon the issuance of a purchase order directly from the Local Government Agency. The City will not be responsible for payment of any amounts owed by any other Local Government Agencies, and will have no liability for the acts or omissions of any other Local Government Agency

**3.1.5. Confidentiality**

All deliverables and reports, data, findings or information in any form prepared, assembled or encountered by or provided by Contractor under this Contract are property of the City and are confidential, except as specifically authorized in this Contract or as may be required by law. Contractor

must not allow the Deliverables to be made available to any other individual or organization without the prior written consent of the City. Further, all documents and other information provided to Contractor by the City are confidential and must not be made available to any other individual or organization without the prior written consent of the City. Contractor must implement such measures as may be necessary to ensure that its staff and its Subcontractors are bound by the confidentiality provisions contained in this Contract.

Contractor must not issue any publicity news releases or grant press interviews, and except as may be required by law during or after the performance of this Contract, disseminate any information regarding its Services or the project to which the Services pertain without the prior written consent of the Commissioner.

If Contractor is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any records, data or documents which may be in Contractor's possession by reason of this Contract, Contractor must immediately give notice to the Commissioner, CPO and the Corporation Counsel for the City with the understanding that the City will have the opportunity to contest such process by any means available to it before the records or documents are submitted to a court or other third party. Contractor, however, is not obligated to withhold the delivery beyond the time ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

### **3.1.6. Indemnity**

Contractor must defend, indemnify, keep and hold harmless the City, its officers, representatives, elected and appointed officials, agents and employees from and against any and all Losses (as defined below), including those related to injury, death or damage of or to any person or property, any infringement or violation of any property right (including any patent, trademark or copyright); failure to pay or perform or cause to be paid or performed Contractors covenants and obligations as and when required under this Contract or otherwise to pay or perform its obligations to any subcontractor; the City's exercise of its rights and remedies under this Contract, and injuries to or death of any employee of Contractor or any subcontractor under any workers compensation statute.

"Losses" means, individually and collectively, liabilities of every kind, including monetary damages and reasonable costs, payments and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, fines, judgments or settlements, any or all of which in any way arise out of or relate to the negligent or otherwise wrongful errors, acts, or omissions of Contractor, its employees, agents and subcontractors.

At the City Corporation Counsel's option, Contractor must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Contractor of any of its obligations under this Contract. Any settlement must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

To the extent permissible by law, Contractor waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due to third parties arising out of any Losses, including but not limited to any limitations on Contractor's liability with respect to a claim by any employee of Contractor arising under the Workers Compensation Act, 820 ILCS 305/1 et seq. or any other related law or judicial decision (such as, *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The City, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code or any other statute.

The indemnities in this section survive expiration or termination of this Contract for matters occurring or arising during the term of this Contract or as the result of or during the Contractor's performance of work or services beyond the term. Contractor acknowledges that the requirements set forth in this section to indemnify, keep and save harmless and defend the City are apart from and not limited by the Contractor's duties under this Contract, including the insurance requirements set forth in the Contract.

### **3.1.7. Non-Liability of Public Officials**

Contractor and any assignee or Subcontractor of Contractor must not charge any official, employee or agent of the City personally with any liability or expenses of defense or hold any official, employee or agent of the City personally liable to them under any term or provision of this Contract or because of the City's execution, attempted execution or any breach of this Contract.

### **3.1.8. Contract Extension Option**

The City may extend this Contract once following the expiration of the contract term for up to 181 Calendar Days or until such time as a new contract has been awarded for the purpose of providing continuity of services and/or supply while procuring a replacement contract subject to acceptable performance by the Contractor and contingent upon the appropriation of sufficient funds. The CPO will give the Contractor notice of the City's intent to exercise its option to renew the Contract for the approaching option period.

## **3.2. Compensation Provisions**

### **3.2.1. Ordering, Invoices, and Payment**

#### **3.2.1.1. Purchase Orders**

Requests for work, services or goods in the form of a Purchase Order will be issued by the Department and sent to the Contractor to be applied against the Contract. The Contractor must not honor any order(s), perform work or services or make any deliveries of goods without receipt of a Purchase Order issued by the City of Chicago. Any work, services, or goods provided by the Contractor without a Purchase Order is made at the Contractor's risk. Consequently, in the event such Purchase Order is not provided by the City, the Contractor releases the City from any liability whatsoever to pay for any work, services, or goods provided without said Purchase Order.

Purchase Orders will indicate quantities ordered for each line item, unit/total cost, shipping address, delivery date, fund chargeable information, catalog information (if applicable), and other pertinent instructions regarding performance or delivery.

#### **3.2.1.2. Invoices**

If required by the Scope of Work / Detailed Specifications, original invoices must be sent by the Contractor to the Department to apply against the Contract. Invoices must be submitted in accordance with the mutually agreed upon time period with the Department. All invoices must be signed, dated and reference the City's Purchase Order number and Contract number. A signed work ticket, time sheets, manufacturer's invoice, if applicable, or any documentation requested by the Commissioner must accompany each invoice. If a Contractor has more than one contract with the City, separate invoices must be prepared for each contract in lieu of combining items from different contracts under the same invoice. Invoice quantities, description of work, services or goods, unit of measure, pricing and/or catalog information must correspond to the items on the Proposal Pages of the Bid Documents. If invoicing Price List/Catalog items, indicate Price List/Catalog number, item number, Price List/Catalog date and Price List/Catalog page number on the invoice.

#### **3.2.1.3. Payment**

The City will process payment within sixty (60) calendar days after receipt of invoices and all supporting documentation necessary for the City to verify the satisfactory delivery of work, services or goods to be provided under this Contract.

Contractor may be paid, at the City's option, by electronic payment method. If the City elects to make payment through this method, it will so notify the Contractor, and Contractor agrees to cooperate to facilitate such payments by executing the City's electronic funds transfer form, available for download from the City's website at:

[http://www.cityofchicago.org/content/dam/city/depts/fin/supp\\_info/DirectDepositCityVendor.pdf](http://www.cityofchicago.org/content/dam/city/depts/fin/supp_info/DirectDepositCityVendor.pdf).

The City reserves the right to offset mistaken or wrong payments against future payments.

The City will not be obligated to pay for any work, services or goods that were not ordered with a Purchase Order or that are non-compliant with the terms and conditions of the Contract.



Documents. Any goods, work, or services which fail tests and/or inspections are subject to correction, exchange or replacement at the cost of the Contractor.

#### **3.2.1.4. Electronic Ordering and Invoices**

The Contractor will cooperate in good faith with the City in implementing electronic ordering and invoicing, including but not limited to price lists/catalogs, purchase orders, releases and invoices. The electronic ordering and invoice documents will be in a format specified by the City and transmitted by an electronic means specified by the City. Such electronic means may include, but are not limited to, disks, e-mail, EDI, FTP, web sites, and third party electronic services. The CPO reserves the right to change the document format and/or the means of transmission upon written notice to the Contractor. Contractor will ensure that the essential information, as determined by the CPO, in the electronic document, corresponds to that information submitted by the Contractor in its paper documents. The electronic documents will be in addition to paper documents required by this Contract, however, by written notice to the Contractor, the CPO may deem any or all of the electronic ordering and invoice documents the official documents and/or eliminate the requirement for paper ordering and invoice documents.

#### **3.2.1.5. City Right to Offset**

The City may offset against any invoice from Contractor any costs incurred by the City as a result of event of default by Contractor under this Contract or otherwise resulting from Contractor's performance or non-performance under this Contract, including but not limited to any credits due as a result of over-billing by Contractor or overpayments made by the City. If the amount offset is insufficient to cover those costs, Contractor is liable for and must promptly remit to the City the balance upon written demand for it. This right to offset is in addition to and not a limitation of any other remedies available to the City.

#### **3.2.1.6. Records**

Upon request the Contractor must furnish to the City such information related to the progress, execution, and cost of the Services. All books and accounts in connection with this Contract must be open to inspection by authorized representatives of the City. The Contractor must make these records available at reasonable times during the performance of the Services and will retain them in a safe place and must retain them for at least five (5) years after the expiration or termination of the Contract.

#### **3.2.1.7. Audits**

##### **3.2.1.7.1. City's Right to Conduct Audits**

The City may, in its sole discretion, audit the records of Contractor or its Subcontractors, or both, at any time during the term of this Contract or within five years after the Contract ends, in connection with the goods, work, or services provided under this Contract. Each calendar year or partial calendar year may be deemed an "audited period".

##### **3.2.1.7.2. Recovery for Over-Billing**

If, as a result of such an audit, it is determined that Contractor or any of its Subcontractors has overcharged the City in the audited period, the City will notify Contractor. Contractor must then promptly reimburse the City for any amounts the City has paid Contractor due to the overcharges and, depending on the facts, also some or all of the cost of the audit, as follows:

If the audit has revealed overcharges to the City representing less than 5% of the total value, based on the contract prices, of the goods, work, or services provided in the audited period, then the Contractor must reimburse the City for 50% of the cost of the audit and 50% of the cost of each subsequent audit that the City conducts,

If, however, the audit has revealed overcharges to the City representing 5% or more of the total value, based on the contract prices, of the goods, work, or services provided in the audited period, then Contractor must reimburse the City for the full cost of the audit and of each subsequent audit.

Failure of Contractor to reimburse the City in accordance with the foregoing is an event of default under this Contract, and Contractor will be liable for all of the City's costs of collection, including any court costs and attorneys' fees.

### **3.2.2. Subcontractor Payment Reports**

The Contractor must report payments to Subcontractors on a monthly basis in the form of an electronic report. Upon the first payment issued by the City to the Contractor for services performed, on the first day of each month and every month thereafter, email and/or fax notifications will be sent to the Contractor with instructions to report payments to Subcontractors that have been made in the prior month. This information must be entered into the Certification and Compliance Monitoring System (C2), or whatever reporting system is currently in place, on or before the fifteenth (15th) day of each month.

Once the Contractor has reported payments made to each Subcontractor, including zero dollar amount payments, the Subcontractor will receive an email and/or fax notification requesting that they log into the system and confirm payments received.

All monthly confirmations must be reported on or before the twentieth (20th) day of each month. Contractor and Subcontractor reporting to the C2 system must be completed by the 25th of each month or payments may be withheld.

All contracts between the Contractor and its Subcontractors must contain language requiring the Subcontractors to respond to email and/or fax notifications from the City requiring them to report payments received from the Contractor.

Access to the Certification and Compliance Monitoring System (C2), which is a web-based reporting system, can be found at: <https://chicago.mwdbe.com>

(Note: This site works for reporting all Subcontractor payments regardless of whether they are MBE/WBE/DBE or non-certified entities.)

If a Subcontractor has satisfactorily performed in accordance with the requirements of the Contract, Contractor must pay Subcontractor for such work, services, or materials within fourteen (14) calendar days of Contractor receiving payment from the City. Failure to comply with the foregoing will be deemed an event of default.

### **3.2.3. Prompt Payment to Subcontractors**

#### **3.2.3.1. Incorporation of Prompt Payment Language in Subcontracts**

Contractor must state the requirements of these Prompt Payment provisions in all Subcontracts and purchase orders. If Contractor fails to incorporate these provisions in all Subcontracts and purchase orders, the provisions of this Section are deemed to be incorporated in all Subcontracts and purchase orders. Contractor and the Subcontractors have a continuing obligation to make prompt payment to their respective Subcontractors. Compliance with this obligation is a condition of Contractor's participation and that of its Subcontractors on this Contract.

#### **3.2.3.2. Payment to Subcontractors Within Fourteen Days**

The Contractor must make payment to its Subcontractors within 14 days of receipt of payment from the City for each invoice, but only if the Subcontractor has satisfactorily provided goods or services or completed its work or services in accordance with the Contract Documents and provided the Contractor with all of the documents and information required of the Contractor. The Contractor may delay or postpone payment for a to a Subcontractor when the Subcontractor's work or materials do not comply with the requirements of the Contract Documents, the Contractor is acting in good faith, and not in retaliation for a Subcontractor exercising legal or contractual rights.

##### **3.2.3.2.1. Reporting Failures to Promptly Pay**

The City posts payments to prime contractors on the web at <http://webapps.cityofchicago.org/VCSearchWeb/org/cityofchicago/vcsearch/controller/payments/begin.do?agencyId=city>.

If the Contractor, without reasonable cause, fails to make any payment to its Subcontractors and material suppliers within 14 days after receipt of payment under a City contract, the Contractor shall pay to its Subcontractors and material suppliers, in addition to the payment due them, interest in the amount of 2% per month, calculated from the expiration of the 14-day period until fully paid.

In the event that a Contractor fails to make payment to a Subcontractor within the 14-day period required above, the Subcontractor may notify the City by submitting a report form that may be downloaded from the DPS website at

[http://www.cityofchicago.org/content/dam/city/depts/dps/ContractAdministration/StandardFormsAgreements/Failure\\_to\\_Promptly\\_Pay\\_Fillable\\_Form\\_3\\_2013.pdf](http://www.cityofchicago.org/content/dam/city/depts/dps/ContractAdministration/StandardFormsAgreements/Failure_to_Promptly_Pay_Fillable_Form_3_2013.pdf)

The report will require the Subcontractor to affirm that (a) its invoice to the Contractor was included in the payment request submitted by the contractor to the City and (b) Subcontractor has not, at the time of the report, received payment from the contractor for that invoice. The report must reference the payment (voucher) number posted on-line by the City in the notice of the payment to the contractor.

Subcontractors are hereby reminded that per Chapters 1-21, "False Statements," and 1-22, "False Claims," of the Municipal Code of Chicago, making false statements or claims to the City are violations of law and subject to a range of penalties including fines and debarment

#### **3.2.3.2.2. Whistleblower Protection**

Contractor shall not take any retaliatory action against any Subcontractor for reporting non-payment pursuant to this Sub-Section 3.2.3. Any such retaliatory action is an event of default under this Contract and is subject to the remedies set forth in Section 3.5 hereof, including termination. In addition to those remedies, any retaliatory action by a contractor may result in a contractor being deemed non-responsible for future City contracts or, if, in the sole judgment of the Chief Procurement Officer, such retaliatory action is egregious, the Chief Procurement Officer may initiate debarment proceedings against the contractor. Any such debarment shall be for a period of not less than one year.

#### **3.2.3.3. Liquidated Damages for Failure to Promptly Pay**

Much of the City's economic vitality derives from the success of its small businesses. The failure by contractors to pay their subcontractors in a timely manner, therefore, is clearly detrimental to the City. Inasmuch as the actual damages to the City due to such failure are uncertain in amount and difficult to prove, Contractor and City agree that the Chief Procurement Officer may assess liquidated damages against contractors who fail to meet their prompt payment requirements. Such liquidated damages shall be assessed to compensate the City for any and all damage incurred due to the failure of the Contractor to promptly pay its subcontractors, and does not constitute a penalty. Any and all such liquidated damages collected by the City shall be used to improve the administration and outreach efforts of the City's Small Business Program.

#### **3.2.3.4. Action by the City**

Upon receipt of a report of a failure to pay, the City will issue notice to the contractor, and provide the contractor with an opportunity to demonstrate reasonable cause for failing to make payment within applicable period set forth in the Contract. The Chief Procurement Officer, in his or her sole judgment, shall determine whether any cause for nonpayment provided by a contractor is reasonable. In the event that the contractor fails to demonstrate reasonable cause for failure to make payment, the City shall notify the contractor that it will assess liquidated damages. Any such liquidated damages will be assessed according to the following schedule:

First Unexcused Report:	\$50
Second Unexcused Report:	\$100
Third Unexcused Report:	\$250
Fourth Unexcused Report	\$500

### **3.2.3.5. Direct Payment to Subcontractors By City**

The CPO may notify the Contractor that payments to the Contractor will be suspended if the CPO has determined that the Contractor has failed to pay any Subcontractor, employee, or workman, for work performed. If Contractor has not cured a failure to pay a Subcontractor, employee or workman within 10 days after receipt of such notice, the CPO may request the Comptroller to apply any money due, or that may become due, to Contractor under the Contract to the payment of such Subcontractors, workmen, and employees and the effect will be the same, for purposes of payment to Contractor of the Contract Price, as if the City had paid Contractor directly.

Further, if such action is otherwise in the City's best interests, the CPO may (but is not obligated to) request that the Comptroller make direct payments to Subcontractors for monies earned on contracts and the effect will be the same, for purposes of payment to Contractor of the Contract Price, as if the City had paid Contractor directly. The City's election to exercise or not to exercise its rights under this paragraph shall not in any way affect the liability of the Contractor or its sureties to the City or to any such Subcontractor, workman, or employee upon any bond given in connection with such Contract

### **3.2.4. General Price Reduction – Automatic Eligibility for General Price Reductions**

If at any time after the Bid Opening Date the Contractor makes a general reduction in the price of any goods, services or work covered by the Contract to its customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to the Contract for the duration of the contract period (or until the price is further reduced). Such price reduction will be effective at the same time and in the same manner as the reduction in the price to customers generally.

For purpose of this provision, a general price reduction will mean any reduction in the price of an article or service offered (1) to Contractor's customers generally, or (2) in the Contractor's price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc., which was used as the basis for bidding on this Contract. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a general price reduction under this provision.

The Contractor must invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the General Price Reduction provision of the Contract. The Contractor, in addition, must within 10 calendar days of any general price reduction notify the CPO of such reduction by letter. Failure to do so will be an event of default. Upon receipt of any such notice of a general price reduction all participating Departments will be duly notified by the CPO.

Failure to notify the CPO of a General Price Reduction is an event of default, and the City's remedies shall include a rebate to the City of any overpayments

## **3.3. Compliance With All Laws**

### **3.3.1. General**

Contractor must observe and comply with all applicable federal, state, county and municipal laws, statutes, regulations, codes, ordinances and executive orders, in effect now or later and as amended whether or not they appear in the Contract Documents.

Provisions required by law, ordinances, rules, regulations, or executive orders to be inserted in the Contract are deemed inserted in the Contract whether or not they appear in the Contract.

Contractor must pay all taxes and obtain all licenses, certificates, and other authorizations required in connection with the performance of its obligations hereunder, and Contractor must require all Subcontractors to also do so. Failure to do so is an event of default and may result in the termination of this Contract

### **3.3.2. Non-Discrimination**

#### **3.3.2.1. Federal Affirmative Action**

It is an unlawful employment practice for the Contractor (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation,

or the terms, conditions, or privileges of his employment, because of such individuals race, color, religion, sex, age, handicap or national origin, or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individuals race, color, religion, sex, age, handicap or national origin.

Contractor must comply with The Civil Rights Act of 1964, 42 U.S.C. sec. 2000 et seq (1988), as amended. Attention is called to: Exec. Order No. 11,246,30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000(e) note, as amended by Exec. Order No. 11,375,32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12,086,43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. sec. 61 01-61 06 (1988); Rehabilitation Act of 1973, 29 U.S.C. sec. 793-794 (1988), Americans with Disabilities Act, 42 U.S.C. sec. 12102 et seq, and 41 C.F.R. Part 60 et seq. (1990), and all other applicable federal laws, rules, regulations and executive orders.

### **3.3.2.2. Illinois Human Rights Act**

Contractor must comply with the Illinois Human Rights Act, 775ILCS 5/1-1 01 et seq., as amended and any rules and regulations promulgated in accordance therewith, including, but not limited to the Equal Employment Opportunity Clause, 445 Ill. Admin. Code 750 Appendix A.

Contractor must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq, as amended, and all other applicable state laws, rules, regulations and executive orders.

### **3.3.2.3. Chicago Human Rights Ordinance MCC Ch. 2-160**

Contractor must comply with the Chicago Human Rights Ordinance, MCC Ch. 2-160, Sect. 2-160-010 et seq., as amended; and all other applicable municipal code provisions, rules, regulations and executive orders.

Contractor must furnish or shall cause each of its Subcontractors to furnish such reports and information as requested by the Chicago Commission on Human Relations

### **3.3.2.4. Business Enterprises Owned by People With Disabilities (BEPD)**

It is the policy of the City of Chicago that businesses certified as a BEPD in accordance with MCC Sect. 2-92-337 et seq., Regulations Governing Certification of BEPDs, and all other Regulations promulgated under the aforementioned sections of the MCC, shall have the full and fair opportunities to participate fully in the performance of this Contract

Contractor shall not discriminate against any person or business on the basis of disability, and shall take affirmative actions to ensure BEPDs shall have full and fair opportunities to compete for and perform subcontracts for supplies or services.

Failure to carry out the commitments and policies set forth herein shall constitute a material breach of the Contract and may result in the termination of the Contract or such remedy as the City deems appropriate.

For purposes of this section only, the following definitions apply:

"Business Enterprises owned by People with Disabilities" or "BEPD" has the same meaning ascribed to it in MCC Sect. 2-92-586.

"Bid incentive" means an amount deducted, for bid evaluation purposes only, from the contract base bid in order to calculate the bid price to be used to evaluate the bid on a competitively bid contract.

"Construction project" has the same meaning ascribed to it in MCC Sect. 2-92-335.

"Contract" means any contract, purchase order, construction project, or other agreement (other than a delegate agency contract or lease of real property or collective bargaining agreement) awarded by the City and whose costs is to be paid from funds belonging to or administered by the City

**"Contract base bid"** means the total dollar amount a contractor bids on a contract without factoring any bid incentive or percentage reductions to the bid amount.

**"Earned credit"** means the amount of the bid incentive allocated to a contractor upon completion of a contract in which the contractor met or exceeded his or her goals for the utilization of BEPDs in the performance of the contract.

**"Earned credit certificate"** means a certificate issued by the Chief Procurement Officer evidencing the amount of earned credit a contractor has been awarded.

The CPO shall award a bid incentive to Contractor for utilization of a BEPD as a prime contractor or subcontractor in accordance with the provisions of this section. The bid incentive shall be earned in the performance of the Contract, provided that the bid incentive earned in the performance of the Contract shall only be applied to a future contract.

Where not otherwise prohibited by federal, state, or local law, the CPO shall allocate to any qualified bidder the following bid incentive for utilization of a BEPD as a prime contractor or subcontractor in the performance of the contract.

<i>% of total dollar contract amount performed by BEPD</i>	<i>Bid incentive</i>
2 to 5%	½% of the contract base bid
6 to 10%	1% of the contract base bid
11% or more	2% of the contract base bid

The bid incentive shall be calculated and applied in accordance with the provisions of this section. The bid incentive is used only to calculate an amount to be used in evaluating the bid. The bid incentive does not affect the contract price.

As part of the contract close-out procedure, if the CPO determines that the Contractor has successfully met his or her BEPD utilization goals either as a prime contractor or with subcontractors, the CPO shall issue an earned credit certificate that evidences the amount of earned credits allocated to the Contractor. The Contractor may apply the earned credits as the bid incentive for any future contract bid of equal or less dollar amount. The earned credit certificate is valid for three years from the date of issuance and shall not be applied towards any future contract bid after the expiration of that period.

The Contractor may apply the earned credit certificate on multiple future contract bids during the three-year period in which the certificate is valid, but may only receive one bid incentive for bid evaluation purposes on one contract award. If the Contractor applies the earned credit certificate on multiple contract bids and is the lowest responsive and responsible bidder on more than one contract bid, the earned credit certificate shall be applied to the contract bid first to be advertised by the Department of Procurement Services, or if multiple contract bids were advertised on the same date, the earned credit certificate shall be applied only to the contract bid with the greatest dollar value.

The Contractor shall maintain accurate and detailed books and records necessary to monitor compliance with this section and shall submit such reports as required by the CPO, or the commissioner of the supervising department.

Full access to the Contractor's and Subcontractor's records shall be granted to the CPO, the commissioner of the supervising department, or any duly authorized representative thereof. The Contractor and Subcontractors shall maintain all relevant records for a period of at least three years after final acceptance of the work.

The CPO is authorized to adopt, promulgate and enforce reasonable rules and regulations pertaining to the administration and enforcement of this section.

### **3.3.3. Living Wage Ordinance**

MCC Sect. 2-92-610 provides for a living wage for certain categories of workers employed in the performance of City contracts, specifically non-City employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers, and clerical workers ("Covered Employees"). Accordingly, pursuant to MCC Sect. 2-92-610 and regulations promulgated thereunder.

If the Contractor has 25 or more full-time employees, and if at any time during the performance of the contract the Contractor and/or any subcontractor or any other entity that provides any portion of the Services (collectively "Performing Parties") uses 25 or more full-time security guards, or any number of other full-time Covered Employees, then The Contractor's obligation to pay, and to assure payment of, the Base Wage will begin at any time during the Contract term when the conditions set forth in (1) and (2) above are met, and will continue thereafter until the end of the Contract term.

As of July 1, 2013 the Base Wage is \$11.78. The current rate can be found on the Department of Procurement Services' website. Each July 1st the Base Wage will be adjusted, using the most recent federal poverty guidelines for a family of four (4) as published annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four (4) divided by 2000 hours or the current base wage, whichever is higher. At all times during the term of this Contract, Contractor and all other Performing Parties must pay the Base Wage (as adjusted in accordance with the above). If the payment of prevailing wages is required for work or services done under this Contract, and the prevailing wages for Covered Employees are higher than the Base Wage, then the Contractor must pay the prevailing wage rates.

The Contractor must include provisions in all subcontracts requiring its Subcontractors to pay the Base Wage to Covered Employees. The Contractor agrees to provide the City with documentation acceptable to the CPO demonstrating that all Covered Employees, whether employed by the Contractor or by a subcontractor, have been paid the Base Wage, upon the City's request for such documentation. The City may independently audit the Contractor and/or subcontractors to verify compliance herewith.

Failure to comply with the requirements of this Section will be an event of default under this Contract, and further, failure to comply may result in ineligibility for any award of a City contract or subcontract for up to three years.

Not-for-Profit Corporations: If the Contractor is a corporation having Federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and is recognized under Illinois not-for-profit law, then the provisions above do not apply.

#### **3.3.4. Economic Disclosure Statement and Affidavit and Appendix A ("EDS")**

Pursuant to MCC Ch. 2-154 and 65 ILCS 5/8-10-8.5 any person, business entity or agency submitting a bid or proposal to or contracting with the City of Chicago will be required to complete the Disclosure of Ownership Interests in the EDS. Failure to provide complete or accurate disclosure will render this Contract voidable by the City.

Contractors must complete an online EDS prior to the Bid Opening Date. Contractors are responsible for notifying the City and updating their EDS any time there is a change in circumstances that makes any information provided or certification made in an EDS inaccurate, obsolete or misleading. Failure to so notify the City and update the EDS is grounds for declaring the Contractor in default, terminating the Contract for default, and declaring the Contractor ineligible for future contracts.

Contractor makes certain representations and certifications that the City relies on in its decision to enter into a contract. The Laws and requirements that are addressed in the EDS include the following:

##### **3.3.4.1. Business Relationships With Elected Officials MCC Sect. 2-156-030(b)**

Pursuant to MCC Sect. 2-156-030(b), it is illegal for any elected official, or any person acting at the direction of such official, to contact either orally or in writing any other City official or employee with respect to any matter involving any person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or

spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months. In addition, no elected official may participate in any discussion in any City Council committee hearing or in any City Council meeting or vote on any matter involving the person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months

Violation of MCC Sect. 2-156-030 by any elected official with respect to this contract will be grounds for termination of this contract. The term financial interest is defined as set forth in MCC Chapter 2-156.

**3.3.4.2. MCC 1-23 and 720 ILCS 5/33E Bribery, Debts, and Debarment Certification**

The Contractor or each joint venture partner, if applicable, must complete the appropriate subsections in the EDS which certify that the Contractor or each joint venture partner, its agents, employees, officers and any subcontractors (a) have not been engaged in or been convicted of bribery or attempted bribery of a public officer or employee of the City of Chicago, the State of Illinois, any agency of the federal government or any state or local government in the United States or engaged in or been convicted of bid-rigging or bid-rotation activities as defined in this section as required by the Illinois Criminal Code; (b) do not owe any debts to the State of Illinois, in accordance with 65 ILCS 5/11-42.1-1 and (c) are not presently debarred or suspended; Certification Regarding Environmental Compliance, Certification Regarding Ethics and Inspector General; and Certification Regarding Court-Ordered Child Support Compliance.

Contractor, in performing under this contract shall comply with MCC Sect. 2-92-320, as follows:

No person or business entity shall be awarded a contract or sub-contract if that person or business entity: (a) has been convicted of bribery or attempting to bribe a public officer or employee of the City of Chicago, the State of Illinois, or any agency of the federal government or of any state or local government in the United States, in that officers or employee's official capacity, or (b) has been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, or otherwise, or (c) has made an admission of guilt of such conduct described in (a) or (b) above which is a matter of record but has not been prosecuted for such conduct

For purposes of this section, where an official, agent or employee of a business entity has committed any offense under this section on behalf of such an entity and pursuant to the direction or authorization of a responsible official thereof, the business entity will be chargeable with the conduct.

One business entity will be chargeable with the conduct of an affiliated agency. Ineligibility under this section will continue for three (3) years following such conviction or admission. The period of ineligibility may be reduced, suspended, or waived by the CPO under certain specific circumstances. Reference is made to Section 2-92-320 for a definition of affiliated agency, and a detailed description of the conditions which would permit the CPO to reduce, suspend, or waive the period of ineligibility.

**3.3.4.3. Federal Terrorist (No-Business) List**

Contractor warrants and represents that neither Contractor nor an Affiliate, as defined below, appears on the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List, or the Debarred List as maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or by the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment



"Affiliate" means a person or entity which directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with Contractor. A person or entity will be deemed to be controlled by another person or entity if it is controlled in any manner whatsoever that results in control in fact by that other person or entity, either acting individually or acting jointly or in concert with others, whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise

#### **3.3.4.4. Inspector General and Legislative Inspector General**

It is the duty of any bidder, proposer or Contractor, all Subcontractors, every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners and employees of any bidder, proposer, Contractor, Subcontractor or such applicant to cooperate with the Inspector General or the Legislative Inspector General in any investigation or hearing, if applicable, undertaken pursuant to MCC Ch. 2-56 or 2-55, respectively. Contractor understands and will abide by all provisions of MCC Ch. 2-56 and 2-55.

All subcontracts must inform Subcontractors of this provision and require understanding and compliance with them

#### **3.3.4.5. Governmental Ethics Ordinance 2-156**

Contractor must comply with MCC Ch. 2-156, Governmental Ethics, including but not limited to MCC Sect. 2-156-120 pursuant to which no payment, gratuity or offer of employment will be made in connection with any City contract, by or on behalf of a subcontractor to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order. Any contract negotiated, entered into, or performed in violation of any of the provisions of this Chapter will be voidable as to the City.

### **3.3.5. Restrictions on Business Dealings**

#### **3.3.5.1. Conflicts of Interest**

The Contractor covenants that it presently has no interest and will not acquire any interest, direct or indirect, in any enterprise which would conflict in any manner or degree with the performance of the work, services or goods to be provided hereunder. The Contractor further covenants that in its performance of the Contract no person having any such interest shall be employed. If the City determines that the Contractor does have such a conflict of interest, the City will notify the Contractor in writing, stating the basis for its determination. The Contractor will thereafter have 30 days in which to respond with reasons why the Contractor believes a conflict of interest does not exist. If the Contractor does not respond or if the City still reasonably determines a conflict of interest to exist, the Contractor must terminate its interest in the other enterprise

#### **3.3.5.2. Prohibition on Certain Contributions, Mayoral Executive Order 2011-4**

No Contractor or any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5% ("Owners"), spouses and domestic partners of such Owners, Contractor's Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5% ("Sub-owners") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee during (i) the bid or other solicitation process for this Contract or Other Contract, including while this Contract or Other Contract is executory, (ii) the term of this Contract or any Other Contract between City and Contractor, and/or (iii) any period in which an extension of this Contract or Other Contract with the City is being sought or negotiated

Contractor represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City approached the Contractor or the date the Contractor approached the City, as applicable, regarding the formulation of this

Contract, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee

Contractor shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

The Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4

Violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Contract, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Contract, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Contractor violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Contract resulting from this specification, the CPO may reject Contractor's bid.

For purposes of this provision:

"Other Contract" means any agreement entered into between the Contractor and the City that is (i) formed under the authority of MCC Ch. 2-92, (ii) for the purchase, sale or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved and/or authorized by the City Council.

"Contribution" means a "political contribution" as defined in MCC Ch. 2-156, as amended.

"Political fundraising committee" means a "political fundraising committee" as defined in MCC Ch. 2-156, as amended.

### **3.3.6. Debts Owed to the City; Anti-Scofflaw, MCC Sect. 2-92-380**

In addition to the certifications regarding debts owed to the City in the EDS, Contractor is subject to MCC Sect. 2-92-380.

Pursuant to MCC Sect. 2-92-380 and in addition to any other rights and remedies (including set-off) available to the City under this Contract or permitted at law or in equity, the City will be entitled to set off a portion of the contract price or compensation due under the Contract, in an amount equal to the amount of the fines and penalties for each outstanding parking violation complaint and the amount of any debt owed by the contracting party to the City. For purposes of this section, outstanding parking violation complaint means a parking ticket, notice of parking violation, or parking violation complaint on which no payment has been made or appearance filed in the Circuit Court of Cook County within the time specified on the complaint, and debt means a specified sum of money owed to the City for which the period granted for payment has expired.

However no such debt(s) or outstanding parking violation complaint(s) will be offset from the contract price or compensation due under the contract if one or more of the following conditions are met:

the contracting party has entered into an agreement with the Department of Revenue, or other appropriate City department, for the payment of all outstanding parking violation complaints and debts owed to the City and the Contracting party is in compliance with the agreement; or

the contracting party is contesting liability for or the amount of the debt in a pending administrative or judicial proceeding; or the contracting party has filed a petition in bankruptcy and the debts owed the City are dischargeable in bankruptcy.

### **3.3.7. Other City Ordinances and Policies**

#### **3.3.7.1. False Statements**

False statements made in connection with this Contract, including statements in, omissions from and failures to timely update the EDS, as well as in any other affidavits, statements or Contract Documents constitute a material breach of the Contract. Any such misrepresentation renders the Contract voidable at the option of the City, notwithstanding any prior review or acceptance by the City of any materials containing such a misrepresentation. In addition, the City may debar Contractor, assert any contract claims or seek other civil or criminal remedies as a result of a misrepresentation (including costs of replacing a terminated Contractor pursuant to MCC Sect. 1-21-010).

#### **3.3.7.2. MacBride Principles Ordinance, MCC Sect. 2-92-580**

This law promotes fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provide a better working environment for all citizens in Northern Ireland.

In accordance with MCC Sect. 2-92-580, if the primary Contractor conducts any business operations in Northern Ireland, it is hereby required that the Contractor will make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).

For those bidders who take exception in competitive bid contracts to the provision set forth above, the City will assess an eight percent (8%) penalty. This penalty will increase their bid price for the purpose of canvassing the bids in order to determine who is to be the lowest responsible bidder. This penalty will apply only for purposes of comparing bid amounts and will not affect the amount of any contract payment.

The provisions of this Section will not apply to contracts for which the City receives funds administered by the United States Department of Transportation (USDOT) except to the extent Congress has directed that USDOT not withhold funds from states and localities that choose to implement selective purchasing policies based on agreement to comply with the MacBride Principles for Northern Ireland, or to the extent that such funds are not otherwise withheld by the DOT.

#### **3.3.7.3. Shakman Accord**

- A. The City is subject to the May 31, 2007 Order entitled "Agreed Settlement Order and Accord" (the "Shakman Accord") and the June 24, 2011 "City of Chicago Hiring Plan" (the "City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.
- B. Contractor is aware that City policy prohibits City employees from directing any individual to apply for a position with Contractor, either as an employee or as a subcontractor, and from directing Contractor to hire an individual as an employee or as a Subcontractor. Accordingly, Contractor must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Contractor under this Contract are employees or Subcontractors of Contractor, not employees of the City of Chicago. This Contract is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Contractor.

- C Contractor will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Contract, or offer employment to any individual to provide services under this Contract, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Contract, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.
- D. In the event of any communication to Contractor by a City employee or City official in violation of paragraph B above, or advocating a violation of paragraph C above, Contractor will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the head of the relevant City Department utilizing services provided under this Contract. Contractor will also cooperate with any inquiries by IGO Hiring Oversight or the Shakman Monitor's Office related to the Contract.

### **3.3.8. Compliance with Environmental Laws and Related Matters**

#### **3.3.8.1. Definitions**

For purposes of this section, the following definitions shall apply:

**Environmental Agency:** An Environmental Agency is any governmental agency having responsibility, in whole or in part, for any matter addressed by any Environmental Law. An agency need not be responsible only for matters addressed by Environmental Law(s) to be an Environmental Agency for purposes of this Contract.

**Environmental Claim:** An Environmental Claim is any type of assertion that Contractor or any Subcontractor is liable, or allegedly is liable, or should be held liable, under any Environmental Law, or that Contractor or any Subcontractor has or allegedly has violated or otherwise failed to comply with any Environmental Law. A non-exhaustive list of Environmental Claims includes, without limitation: demand letters, lawsuits and citations of any kind regardless of originating source.

**Environmental Law:** An Environmental Law is any Law that in any way, directly or indirectly, in whole or in part, bears on or relates to the environment or to human health or safety. A non-exhaustive list of Environmental Laws includes without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. 5101, et seq., the Clean Air Act, 42 U.S.C. 7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. 1251, et seq., the Occupational Safety and Health Act, 29 U.S.C. 651, et seq., the Illinois Environmental Protection Act, 415 ILCS 5/1, et seq., the Illinois Health and Safety Act, 820 ILCS 225/01, et seq., Chapters 7-28 and 11-4 of the Chicago Municipal Code, and all related rules and regulations.

**Law(s):** The word "Law" or "Laws," whether or not capitalized, is intended in the broadest possible sense, including without limitation all federal, state and local: statutes; ordinances; codes; rules, regulations; administrative and judicial orders of any kind, requirements and prohibitions of permits, licenses or other similar authorizations of any kind; court decisions; common law; and all other legal requirements and prohibitions.

**Routine:** As applied to reports or notices, "routine" refers to a report or notice that must be made, submitted or filed on a regular, periodic basis (e.g., quarterly, annually, biennially) and that in no way arises from a spill or other release or any kind, or from an emergency response situation, or from any actual, possible or alleged noncompliance with any Environmental Law.

### **3.3.8.2. Joint Ventures**

If Contractor or any Subcontractor is a joint venture, then every party to every such joint venture is deemed a Subcontractor for purposes of this section, which is entitled "Compliance with Environmental Laws and Related Matters" and every subsection thereof.

### **3.3.8.3. Compliance With Environmental Laws**

Any noncompliance, by Contractor or any Subcontractor, with any Environmental Law during the time that this Contract is effective is an event of default, regardless of whether the noncompliance relates to performance of this Contract. This includes without limitation any failure by Contractor or any Subcontractor to keep current, throughout the term of this Contract, all insurance certificates, permits and other authorizations of any kind that are required, directly or indirectly, by any Environmental Law

### **3.3.8.4. Costs**

Any cost arising directly or indirectly, in whole or in part, from any noncompliance, by Contractor or any Subcontractor, with any Environmental Law, will be borne by the Contractor and not by the City. No provision of this Contract is intended to create or constitute an exception to this provision.

### **3.3.8.5. Proof of Noncompliance; Authority; Cure**

Any adjudication, whether administrative or judicial, against Contractor or any Subcontractor, for a violation of any Environmental Law, is sufficient proof of noncompliance, and therefore of an event of default, for purposes of this Contract.

Any citation issued to/against Contractor or any Subcontractor, by any government agent or entity, alleging a violation of any Environmental Law, is sufficient proof of noncompliance for purposes of this Contract, and therefore of an event of default, if the citation contains or is accompanied by, or the City otherwise obtains, any evidence sufficient to support a reasonable conclusion that a violation has occurred

Any other evidence of noncompliance with any Environmental Law is sufficient proof of noncompliance for purposes of this Contract, and therefore of an event of default, if the evidence is sufficient to support a reasonable conclusion that noncompliance has occurred

The CPO shall have the authority to determine whether noncompliance with an Environmental Law has occurred, based on any of the foregoing types of proof. Upon determining that noncompliance has occurred, s/he may in his/her discretion declare an event of default and may in his/her discretion offer Contractor an opportunity to cure the event of default, such as by taking specified actions, which may include without limitation ceasing and desisting from utilizing a Subcontractor

The CPO may consider many factors in determining whether to declare an event of default, whether to offer an opportunity to cure, and if so any requirements for cure, including without limitation the seriousness of the noncompliance, any effects of the noncompliance, Contractor's and/or Subcontractor's history of compliance or noncompliance with the same or other Laws, Contractor's and/or Subcontractor's actions or inaction towards mitigating the noncompliance and its effects, and Contractor's or Subcontractor's actions or inaction towards preventing future noncompliance

### **3.3.8.6. Copies of Notices and Reports; Related Matters**

If any Environmental Law requires Contractor or any Subcontractor to make, submit or file any non-Routine notice or report of any kind, to any Environmental Agency or other person, including without limitation any agency or other person having any responsibility for any type of emergency response activity, then Contractor must deliver a complete copy of the notice or report (or, in the case of legally required telephonic or other oral notices or reports, a comprehensive written summary of same) to the Law Department within 48 hours of making, submitting or filing the original report.

The requirements of this provision apply, regardless of whether the subject matter of the required notice or report concerns performance of this Contract

Failure to comply with any requirement of this provision is an event of default.

**3.3.8.7. Requests for Documents and Information**

If the Commissioner requests documents or information of any kind that directly or indirectly relate(s) to performance of this Contract, Contractor must obtain and provide the requested documents and/or information to the Commissioner within 5 business days.

Failure to comply with any requirement of this provision is an event of default.

**3.3.8.8. Environmental Claims and Related Matters**

Within 24 hours of receiving notice of any Environmental Claim, Contractor must submit copies of all documents constituting or relating to the Environmental Claim to the Law Department. Thereafter, Contractor must submit copies of related documents if requested by the Law Department. These requirements apply, regardless of whether the Environmental Claim concerns performance of this Contract.

Failure to comply with any requirement of this provision is an event of default.

**3.3.8.9. Preference for Recycled Materials**

To the extent practicable and economically feasible and to the extent that it does not reduce or impair the quality of any work or services, Contractor must use recycled products in performance of the Contract pursuant to U.S. Environment Protection Agency (U.S. EPA) guidelines at 40 CFR Parts 247-253, which implement section 6002 of the Resource Conservation and Recovery Act, as amended, 42 USC § 6962.

**3.3.8.10. No Waste Disposal in Public Way MCC 11-4-1600(E)**

Contractor warrants and represents that it, and to the best of its knowledge, its Subcontractors have not violated and are not in violation of the following sections of the Code (collectively, the Waste Sections):

- 7-28-390 Dumping on public way;
- 7-28-440 Dumping on real estate without permit;
- 11-4-1410 Disposal in waters prohibited;
- 11-4-1420 Ballast tank, bilge tank or other discharge,
- 11-4-1450 Gas manufacturing residue;
- 11-4-1500 Treatment and disposal of solid or liquid,
- 11-4-1530 Compliance with rules and regulations required,
- 11-4-1550 Operational requirements; and
- 11-4-1560 Screening requirements.

During the period while this Contract is executory, Contractor's or any Subcontractor's violation of the Waste Sections, whether or not relating to the performance of this Contract, constitutes a breach of and an event of default under this Contract, for which the opportunity to cure, if curable, will be granted only at the sole discretion of the CPO. Such breach and default entitles the City to all remedies under the Contract, at law or in equity.

This section does not limit the Contractor's and its Subcontractors' duty to comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later, and whether or not they appear in this Contract.

Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this Contract, and may further affect the Contractor's eligibility for future contract awards.

**3.4. Contract Disputes**

**3.4.1. Procedure for Bringing Disputes to the Department**

The Contractor and using Department must attempt to resolve all disputes arising under this Contract in good faith, taking such measures as, but not limited to investigating the facts of the dispute and meeting to discuss the issue(s).

In order to bring a dispute to the Commissioner of a Department, Contractor must provide a general statement of the basis for its claim, the facts underlying the claim, reference to the applicable Contract provisions, and all documentation that describes, relates to and supports the claim. By submitting a Claim, the Contractor certifies that:

- A. The Claim is made in good faith;
- B. The Claim's supporting data are accurate and complete to the best of the person's knowledge and belief;
- C. The amount of the Claim accurately reflects the amount that the claimant believes is due from the City; and
- D. The certifying person is duly authorized by the claimant to certify the Claim.

The Commissioner shall have 30 days from receipt of the Claim to render a written "final decision of the Commissioner" stating the Commissioner's factual and contractual basis for the decision. However, the Commissioner may take an additional period, not to exceed 10 days, to render the final decision. If the Commissioner does not render a "final decision of the Commissioner" within the prescribed time frame, then the Claim should be deemed denied by the Commissioner.

#### **3.4.2. Procedure for Bringing Disputes before the CPO**

Only after the Commissioner has rendered a final decision denying the Contractor's claim may a dispute be brought before the CPO.

If the Contractor and using Department are unable to resolve the dispute, prior to seeking any judicial action, the Contractor must and the using Department may submit the dispute to the CPO for an administrative decision based upon the written submissions of the parties. The party submitting the dispute to the CPO must include documentation demonstrating its good faith efforts to resolve the dispute and either the other party's failure to exercise good faith efforts or both parties' inability to resolve the dispute despite good faith efforts.

The decision of the CPO is final and binding. The sole and exclusive remedy to challenge the decision of the CPO is judicial review by means of a common law writ of certiorari.

The administrative process is described more fully in the "Regulations of the Department of Procurement Services for Resolution of Disputes between Contractors and the City of Chicago", which are available in City Hall, 121 N LaSalle Street, Room 301, Bid and Bond Room, and on-line at:

[http://www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/Dispute\\_Regulations\\_2002.pdf](http://www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/Dispute_Regulations_2002.pdf)

### **3.5. Events of Default and Termination**

#### **3.5.1. Events of Default**

In addition to any breach of contract and events of default described within the Contract Documents, the following constitute an event of default.

- A. Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Contractor to the City
- B. Contractor's material failure to perform any of its obligations under this Contract including the following:
- C. Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services
- D. Failure to have and maintain all professional licenses required by law to perform the Services;

- E. Failure to timely perform the Services;
- F. Failure to perform the Services in a manner reasonably satisfactory to the Commissioner or the CPO or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
- G. Failure to promptly re-perform, as required, within a reasonable time and at no cost to the City, Services that are rejected as erroneous or unsatisfactory,
- H. Discontinuance of the Services for reasons within Contractor's reasonable control;
- I. Failure to update promptly EDS(s) furnished in connection with this Contract when the information or responses contained in it or them is no longer complete or accurate,
- J. Failure to comply with any other term of this Contract, including the provisions concerning insurance and nondiscrimination; and
- K. Any change in ownership or control of Contractor without the prior written approval of the CPO, which approval the CPO will not unreasonably withhold.
- L. Contractor's default under any other Contract it may presently have or may enter into with the City during the life of this Contract. Contractor acknowledges and agrees that in the event of a default under this Contract the City may also declare a default under any such other agreements.
- M. Contractor's repeated or continued violations of City ordinances unrelated to performance under the Contract that in the opinion of the CPO indicate a willful or reckless disregard for City laws and regulations.
- N. Contractor's use of a subcontractor that is currently debarred by the City or otherwise ineligible to do business with the City.

### **3.5.2. Cure or Default Notice**

The occurrence of any event of default permits the City, at the City's sole option, to declare Contractor in default.

The CPO will give Contractor written notice of the default, either in the form of a cure notice ("Cure Notice"), or, if no opportunity to cure will be granted, a default notice ("Default Notice")

If a Cure Notice is sent, the CPO may in his/her sole discretion will give Contractor an opportunity to cure the default within a specified period of time, which will typically not exceed 30 days unless extended by the CPO. The period of time allowed by the CPO to cure will depend on the nature of the event of default and the Contractor's ability to cure. In some circumstances the event of default may be of such a nature that it cannot be cured. Failure to cure within the specified time may result in a Default Notice to the Contractor.

Whether to issue the Contractor a Default Notice is within the sole discretion of the CPO and neither that decision nor the factual basis for it is subject to review or challenge under the Disputes provision of this Contract

If the CPO issues a Default Notice, the CPO will also indicate any present intent the CPO may have to terminate this Contract. The decision to terminate is final and effective upon giving the notice. If the CPO decides not to terminate, this decision will not preclude the CPO from later deciding to terminate the Contract in a later notice, which will be final and effective upon the giving of the notice or on such later date set forth in the Default Notice.

When a Default Notice with intent to terminate is given, Contractor must discontinue any Services, unless otherwise directed in the notice.

### **3.5.3. Remedies**

After giving a Default Notice, the City may invoke any or all of the following remedies:



- A. The right to take over and complete the Services, or any part of them, at Contractor's expense and as agent for Contractor, either directly or through others, and bill Contractor for the cost of the Services, and Contractor must pay the difference between the total amount of this bill and the amount the City would have paid Contractor under the terms and conditions of this Contract for the Services that were assumed by the City as agent for Contractor
- B. The right to terminate this Contract as to any or all of the Services yet to be performed effective at a time specified by the City;
- C. The right to seek specific performance, an injunction or any other appropriate equitable remedy;
- D. The right to seek money damages;
- E. The right to withhold all or any part of Contractor's compensation under this Contract;
- F. The right to deem Contractor non-responsible in future contracts to be awarded by the City.

#### **3.5.4. Non-Exclusivity of Remedies**

The remedies under the terms of this Contract are not intended to be exclusive of any other remedies provided, but each and every such remedy is cumulative and is in addition to any other remedies, existing now or later, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any event of default impairs any such right or power, nor is it a waiver of any event of default nor acquiescence in it, and every such right and power may be exercised from time to time and as often as the City considers expedient.

#### **3.5.5. City Reservation of Rights**

If the CPO considers it to be in the City's best interests, the CPO may elect not to declare default or to terminate this Contract. The parties acknowledge that this provision is solely for the benefit of the City and that if the City permits Contractor to continue to provide the Services despite one or more events of default, Contractor is in no way relieved of any of its responsibilities, duties or obligations under this Contract, nor does the City waive or relinquish any of its rights.

#### **3.5.6. Early Termination**

The City may terminate this Contract, in whole or in part, at any time by a notice in writing from the City to the Contractor. The effective date of termination will be the date the notice is received by the Contractor or the date stated in the notice, whichever is later.

After the notice is received, the Contractor must restrict its activities, and those of its Subcontractors, to activities pursuant to direction from the City. No costs incurred after the effective date of the termination are allowed unless the termination is partial.

Contractor is not entitled to any anticipated profits on services, work, or goods that have not been provided. The payment so made to the Contractor is in full settlement for all services, work or goods satisfactorily provided under this Contract. If the Contractor disputes the amount of compensation determined by the City to be due Contractor, then the Contractor must initiate dispute settlement procedures in accordance with the Disputes provision.

If the City's election to terminate this Contract for default pursuant to the default provisions of the Contract is determined in a court of competent jurisdiction to have been wrongful, then in that case the termination is to be deemed to be an early termination pursuant to this Early Termination provision.

#### **3.6. Department-specific Requirements**

Contractor must comply with the relevant user Department's specific requirements in the performance of this Contract if applicable.

##### **3.6.1. Department of Aviation Standard Requirements**

For purposes of this section "Airport" refers to either Midway International Airport or O'Hare International Airport, which are both owned and operated by the City of Chicago.

#### **3.6.1.1. Confidentiality of Airport Security Data**

Contractor has an ongoing duty to protect confidential information, including but not limited to any information exempt from disclosure under the Illinois Freedom of Information Act such as information affecting security of the airport ("Airport Security Data"). Airport Security Data includes any Sensitive Security Information as defined by 49 CFR Part 1520. Contractor acknowledges that information provided to, generated by, or encountered by Contractor may include Airport Security Data. If Contractor fails to safeguard the confidentiality of Airport Security Data, Contractor is liable for the reasonable costs of actions taken by the City, the airlines, the Federal Aviation Administration ("FAA"), or the Transportation Security Administration ("TSA") that the applicable entity, in its sole discretion, determines to be necessary as a result, including without limitation the design and construction of improvements, procurement and installation of security devices, and posting of guards. All Subcontracts or purchase orders entered into by the Contractor, with parties providing material, labor or services to complete the Work, must contain the language of this section. If the Contractor fails to incorporate the required language in all Subcontracts or purchase orders, the provisions of this section are deemed incorporated in all Subcontracts or purchase orders.

#### **3.6.1.2. Aviation Security**

This Contract is subject to the airport security requirements of 49 United States Code, Chapter 449, as amended, the provisions of which govern airport security and are incorporated by reference, including without limitation the rules and regulations in 14 CFR Part 107 and all other applicable rules and regulations promulgated under them. All employees providing services at the City's airports must be badged by the City. (See Airport Security Badges.) Contractor, Subcontractors and the respective employees of each are subject to such employment investigations, including criminal history record checks, as the Administrator of the Federal Aviation Administration ("FAA"), the Under Secretary of the Transportation Security Administration ("TSA"), and the City may deem necessary. Contractor, Subcontractors, their respective employees, invitees and all other persons under the control of Contractor must comply strictly and faithfully with any and all rules, regulations and directions which the Commissioner, the FAA, or the TSA may issue from time to time may issue during the life of this Contract with regard to security, safety, maintenance and operation of the Airport and must promptly report any information regarding suspected violations in accordance with those rules and regulations.

Gates and doors that permit entry into restricted areas at the Airport must be kept locked by Contractor at all times when not in use or under Contractor's constant security surveillance. Gate or door malfunctions must be reported to the Commissioner without delay and must be kept under constant surveillance by Contractor until the malfunction is remedied.

#### **3.6.1.3. Airport Security Badges**

As part of airport operations and security, the Contractor must obtain from the airport badging office Airport Security Badges for each of his employees, subcontractors, material men, invitees or any person(s) over whom Contractor has control, which must be visibly displayed at all times while at the airport. No person will be allowed beyond security checkpoints without a valid Airport Security Badge. Each such person must submit signed and properly completed application forms to receive Airport Security Badges. Additional forms and tests may be required to obtain Airport Drivers Certification and Vehicle Permits. The application forms will solicit such information as the Commissioner may require in his discretion, including but not limited to name, address, date of birth (and for vehicles, driver's license and appropriate stickers). The Contractor is responsible for requesting and completing the form for each employee and subcontractor employee who will be working at the Airport and all vehicles to be used on the job site. Upon signed approval of the application by the Commissioner or his designee, the employee will be required to attend a presentation regarding airport security and have his or her photo taken for the badge. The Commissioner may grant or deny the application in his sole discretion. The Contractor must make

available to the Commissioner, within one day of request, the personnel file of any employee who will be working on the project.

As provided in Aviation Security above, in order for a person to have an Airport Security Badge that allows access to the airfield or aircraft, a criminal history record check (CHRC) conducted by the Department of Aviation will also be required. The CHRC will typically include a fingerprint analysis by the Federal Bureau of Investigation and such other procedures as may be required by the TSA.

Airport Security Badges, Vehicle Permits and Drivers Licenses will only be issued based upon properly completed application forms. Employees or vehicles without proper credentials may be removed from the secured area and may be subject to fine or arrest. Contractor will be jointly and severally liable for any fines imposed on its employees or its Subcontractors employees.

In addition to other rules and regulations, the following rules related to Airport Security Badges, Vehicle Permits and Drivers Licenses must be adhered to:

- A. Each person must wear and display his or her Airport Security Badge on their outer apparel at all times while at the airport.
- B. All individuals operating a vehicle on the Aircraft Operations Area (AOA) must be familiar and comply with motor driving regulations and procedures of the State of Illinois, City of Chicago and the Department of Aviation. The operator must be in possession of a valid, State-issued Motor Vehicle Operators Driver's License. All individuals operating a vehicle on the AOA without an escort must also be in possession of a valid Aviation-issued Airport Drivers Permit.
- C. All operating equipment must have an Airport Vehicle Access Permit affixed to the vehicle at all times while operating on the Airport. All required City stickers and State Vehicle Inspection stickers must be valid.
- D. Individuals must remain within their assigned area and haul routes unless otherwise instructed by the Department of Aviation.
- E. The Contractors personnel who function as supervisors, and those that escort the Contractors equipment/operators to their designated work sites, may be required to obtain an added multi-area access designation on their personnel Airport Security Badge which must also be displayed while on the AOA.

#### **3.6.1.4. General Requirements Regarding Airport Operations**

##### **3.6.1.4.1. Priority of Airport Operations**

Where the performance of the Contract may affect airport operation, the Contractor must cooperate fully with the Commissioner and his representatives in all matters pertaining to public safety and airport operation. Whether or not measures are specifically required by this Contract, the Contractor at all times must maintain adequate protection to safeguard aircraft, the public and all persons engaged in the work and must take such precaution as will accomplish such end, without interference with aircraft, the public, or maintenance and operations of the airport.

The Contractor's attention is drawn to the fact that airport facilities and infrastructure, including but not limited to runways, taxiways, vehicular roadways, loadways, loading aprons, concourses, holdrooms, gates, and passenger right-of-ways, are being used for scheduled and unscheduled civilian air transportation. Arrivals and departures are under the control of the FAA control tower(s). Use of the Airport for air transportation takes precedence over all of the Contractor's operations. No extra compensation will be allowed for any delays brought about by the operations of the Airport which require that Contractor's work must be interrupted or moved from one part of the work site to another.

##### **3.6.1.4.2. Interruption of Airport Operations**

If Contractor requires interruption of Airport facilities or utilities in order to perform work, Contractor must notify the Deputy Commissioner in charge of the project at least five (5) working days in advance of such time and must obtain the Deputy Commissioner's approval prior to interrupting the service. Interruption of service must be kept to an absolute minimum, and to the extent practicable the work which occasions such interruptions must be performed in stages in order to reduce the time of each interruption. In case of interruptions of electrical services, service must be restored prior to sunset of the same day

Prior to start of work, the Contractor must request of the Deputy Commissioner in charge of the project to provide specific requirements and instructions which are applicable to the particular work site areas, including, but not limited to, areas available for storage of any equipment, materials, tools and supplies needed to perform the work. Contractors must advise the Deputy Commissioner in charge of the project of the volume of equipment, materials, tools, and supplies that will be required in the secured areas of the airport in order to make arrangements for inspection of such equipment, materials, tools, and supplies at a security checkpoint

#### **3.6.1.4.3. Safeguarding of Airport Property and Operations**

The Contractor must not permit or allow its employees, subcontractors, material men, invitees or any other persons over whom Contractor has control to enter or remain upon, or to bring or permit any equipment, materials, tools, or supplies to remain upon any part of the work site if any hazard to aircraft, threat to airport security, or obstruction of airport maintenance and operations, on or off the ground, would be created in the opinion of either the Commissioner or the Deputy Commissioner. Contractors must safeguard, and may be required to account for, all items brought beyond a security checkpoint, especially with respect to tools used in a terminal building.

#### **3.6.1.4.4. Work on the Airfield**

For any work on the airfield, between sunset and sunrise, any equipment and materials stored outside must be marked with red obstruction lights acceptable to the Commissioner and in conformity with all FAA requirements, including Advisory Circular 150/5345-43F. All obstruction lights must be kept continuously in operation between sunset and sunrise 7 days a week and also during any daylight periods when aircraft ceiling is below 500 feet and visibility is less than 5 miles. Information on ceiling and visibility may be obtained by the Contractor on request at the office of the Deputy Commissioner of Operations or from the FAA Control Tower Operator. Proper compliance with these obstruction light requirements is essential to the protection of aircraft and human life and the Contractor has the responsibility of taking the initiative at all times to be aware of ceiling and visibility conditions, without waiting for the FAA Control Tower Operator or any other City representative to ask the Contractor to post obstruction lights.

For any work on the airfield, the Contractor must furnish aircraft warning flags, colored orange and white, in two sizes, one size 2' x 3' for hand use, and one size 3' x 5'. Each separate group or individual in all work areas, regardless of whether or not near runways, taxiways or aprons, must display a flag which must be maintained vertical at all times. Each truck or other piece of equipment of the Contractor must have attached to it, in a vertical and clearly visible position, a warning flag of the larger size. Except as otherwise agreed by the Commissioner or his designee, all cranes or booms used for construction work on the airfield must be lowered to ground level and moved 200 feet off the runways, taxiways and aprons during all hours of darkness and during all daylight hours when the aircraft ceiling is below the minimums specified in this section.

The Contractor acknowledges the importance of fully complying with the requirements of this section in order to protect aircraft and human life, on or off the ground. Failure on the part of the Contractor to perform the work in accordance with the provisions of this section and to

enforce same with regard to all subcontractors, material men, laborers, invitees and all other persons under the Contractor's control is an event of default.

**3.6.1.4.5. Parking Restrictions**

Prior to commencing work, the Contractor must provide the Deputy Commissioner in charge of the project with an estimate of the number of vehicles that will require parking. Contractors are encouraged to provide employee parking elsewhere and shuttle their employees to the work site. The Department of Aviation may, but is not required to, provide parking areas for a limited number of vehicles in designated storage areas. All other vehicles must be parked in the public parking lots at the Airport, and there will be no reduced rate or complimentary parking for such vehicles. Employees must not, at any time, park their personal automobiles, no matter how short the duration, in any drive, road, or any other non-parking lot location at the airport. Such vehicles will be subject to immediate towing at the employees expense.

**3.6.2. Emergency Management and Communications (OEMC) Security Requirements**

**3.6.2.1. Identification of Workers and Vehicles**

All employees and vehicles working within O.E.M.C facilities must be properly identified. All vehicles and personnel passes will be issued to the Contractor by the Executive Director, as required. Contractor, Subcontractors, and employees must return identification material to the Executive Director upon completion of their respective work within the Project, and in all cases, the Contractor must return all identification material to the Executive Director after completion of the Project. Final Contract Payment will not be made until all passes issued have been returned to O E M.C Security.

**3.6.2.2. Access to Facilities**

For purposes of this section, "employee" refers to any individual employed or engaged by Contractor or by any Subcontractor. If the Contractor, or any employee, in the performance of this Contract, has or will have access to a Office of Emergency Management and Communications (O.E.M.C) facility, the City may conduct such background and employment checks, including criminal history record checks and work permit documentation, as the Executive Director of the Office of Emergency Management and Communications and the City may deem necessary, on the Contractor, any Subcontractor, or any of their respective employees. The Executive Director of the Office of Emergency Management and Communications has the right to require the Contractor to supply or provide access to any additional information the Executive Director deems relevant. Before beginning work on the project, Contractor must

Provide the City with a list of all employees requiring access to enable the City to conduct such background and employment checks,

Deliver to the City consent forms signed by all employees who will work on the project consenting to the City's and the Contractor's performance of the background checks described in this Section, and

Deliver to the City consent forms signed by all employees who will require access to the O.E.M.C facility consenting to the searches described in this Section.

The Executive Director may preclude Contractor, any Subcontractor, or any employee from performing work on the project. Further, the Contractor must immediately report any information to the Executive Director relating to any threat to O.E.M.C infrastructure or facilities or the water supply of the City and must fully cooperate with the City and all governmental entities investigating the threat. The Contractor must, notwithstanding anything contained in the Contract Documents to the contrary, at no additional cost to the City, adhere, and cause its Subcontractors to adhere, to any security and safety guidelines developed by the City and furnished to the Contractor from time to time during the term of the Contract and any extensions of it.

Each employee whom Contractor wishes to have access to an O E M.C facility must submit a signed, completed "Area Access Application" to the O E M.C to receive a O.E.M.C Security Badge. If

Contractor wishes a vehicle to have access to a O E M C facility, Contractor must submit a vehicle access application for that vehicle. The applications will solicit such information as the Executive Director may require in his discretion, including name, address, date of birth (and for vehicles, driver's license and appropriate stickers). The Contractor is responsible for requesting and completing these forms for each employee who will be working at O.E.M C facilities and all vehicles to be used on the job site. The Executive Director may grant or deny the application in his sole discretion. The Contractor must make available to the Executive Director, within one (1) day of request, the personnel file of any employee who will be working on the project.

At the Executive Director's request, the Contractor and Subcontractor must maintain an employment history of employees going back five years from the date Contractor began Work or Services on the project. If requested, Contractor must certify that it has verified the employment history as required on the form designated by the Executive Director. Contractor must provide the City, at its request, a copy of the employment history for each employee. Employment history is subject to audit by the City.

#### **3.6.2.3. Security Badges and Vehicle Permits**

O E M.C Security Badges and Vehicle Permits will only be issued based upon properly completed Area Access Application Forms. Employees or vehicles without proper credentials will not be allowed on O.E.M.C property

The following rules related to Security Badges and Vehicle Permits must be adhered to:

- A Each employee must wear and display the O E M C Security Badge issued to that employee on his or her outer apparel at all times.
- B. At the sole discretion of the Executive Director and law enforcement officials, including but not limited to the Chicago Police Department, Cook County Sheriffs Office, Illinois State Police or any other municipal, state or federal law enforcement agency, all vehicles (and their contents) are subject to interior and/or exterior inspection entering or exiting O E M C facilities, and all employees and other individuals entering or exiting O.E.M.C facilities are subject to searches. Vehicles may not contain any materials other than those needed for the project. The Executive Director may deny access to any vehicle or individual in his sole discretion
- C. All individuals operating a vehicle on O E M.C property must be familiar and comply with motor driving regulations and procedures of the State of Illinois and the City of Chicago. The operator must be in possession of a valid, state-issued Motor Vehicle Operator's Driver License.
- D All required City stickers and State Vehicle Inspection stickers must be valid.
- E Individuals must remain within their assigned area and haul routes unless otherwise instructed by the City.
- F. Access to the Work sites will be as shown or designated on the Contract Documents Drawings or determined by the Executive Director. The Executive Director may deny access when, in his sole discretion, the vehicle or individual poses some security risk to O.E.M.C.

#### **3.6.2.4. Gates and Fences**

Whenever the Contractor receives permission to enter O E M.C property in areas that are exit/entrance points not secured by the City, the Contractor may be required to provide gates that comply with O E M.C design and construction standards. Contractor must provide a licensed and bonded security guard, subject to the Executive Director's approval and armed as deemed necessary by the Executive Director, at the gates when the gates are in use. O E M C Security will provide the locks. Failure to provide and maintain the necessary security will result in an immediate closure by O.E.M C personnel of the point of access.

Stockpiling materials and parking of equipment or vehicles near O.E.M.C security fencing is prohibited.

Any security fencing, gates, or alarms damaged by the Contractor or its Subcontractors must be manned by a licensed and bonded security guard of the Contractor at Contractor's expense until the damaged items are restored. Contractor must restore them to their original condition within an eight (8) hour period from the time of notice given by the Executive Director

Temporary removal of any security fencing, gate or alarm to permit construction must be approved by the Executive Director, and Contractor must man the site by a licensed and bonded security guard, approved by and armed as deemed necessary by the Executive Director, at Contractor's expense, on a twenty-four (24) hour basis during the period of temporary removal. Contractor must restore the items removed to their original condition when construction is completed.

#### **3.6.2.5. Hazardous or Illegal Materials**

Unauthorized hazardous or illegal materials, including but not limited to hazardous materials as defined in 49 C.F.R. Parts 100-185 (e.g. explosives, oxidizers, radiological materials, infectious materials), contraband, firearms and other weapons, illegal drugs and drug paraphernalia, may not be taken on O.E.M.C property. Alcoholic beverages are also prohibited.

#### **3.6.3. Chicago Police Department Security Requirements**

As part of Police operations and security, the Contractor must obtain from the Police Department, Security Badges for each of its employees, subcontractors, material men, invitees or any person(s) over whom Contractor has control, which must be visibly displayed at all times while at any Police Department facility. No person will be allowed beyond security checkpoints without a valid Security Badge. Each such person must submit signed and properly completed application forms to receive Security Badges. The application forms will solicit such information as the Superintendent may require; including but not limited to name, address, date of birth (driver's license). The Contractor is responsible for requesting and completing the form for each employee and subcontractors employee. The Superintendent may grant or deny the application in his sole discretion. The Contractor must make available to the Superintendent, within one (1) day of request, the personnel file of any employee who will be working on the project.

In addition to other rules and regulations, the following rules related to Security Badges, must be adhered to

- A. Each person must wear and display his or her Security Badge on their outer apparel at all times while at any Chicago Police Department facility.
- B. Individuals must remain within their assigned area unless otherwise instructed by the Chicago Police Department.

#### **3.6.4. Department of Water Management ("DOWM") Security Requirements**

##### **3.6.4.1. Identification of Workers and Vehicles**

All employees and vehicles working within DOWM facilities must be properly identified. All vehicles and personnel passes will be issued to the Contractor by the Commissioner, as required. Contractor, Subcontractors, and employees must return identification material to the Commissioner upon completion of their respective work within the Project, and in all cases, the Contractor must return all identification material to the Commissioner after completion of the Project. Final Contract Payment will not be made until all passes issued have been returned to DOWM Security

##### **3.6.4.2. Access to Facilities**

For purposes of this section, "employee" refers to any individual employed or engaged by Contractor or by any Subcontractor. If the Contractor, or any employee, in the performance of this Contract, has or will have access to a Department of Water Management (DOWM) facility, the City may conduct such background and employment checks, including criminal history record checks and work permit documentation, as the Commissioner of the Department of Water Management and

the City may deem necessary, on the Contractor, any Subcontractor, or any of their respective employees. The Commissioner of the Department of Water Management has the right to require the Contractor to supply or provide access to any additional information the Commissioner deems relevant. Before beginning work on the project, Contractor must:

Provide the City with a list of all employees requiring access to enable the City to conduct such background and employment checks;

Deliver to the City consent forms signed by all employees who will work on the project consenting to the City's and the Contractor's performance of the background checks described in this Section; and

Deliver to the City consent forms signed by all employees who will require access to the DOWM facility consenting to the searches described in this Section.

The Commissioner may preclude Contractor, any Subcontractor, or any employee from performing work on the project. Further, the Contractor must immediately report any information to the Commissioner relating to any threat to DOWM infrastructure or facilities or the water supply of the City and must fully cooperate with the City and all governmental entities investigating the threat. The Contractor must, notwithstanding anything contained in the Contract Documents to the contrary, at no additional cost to the City, adhere, and cause its Subcontractors to adhere, to any security and safety guidelines developed by the City and furnished to the Contractor from time to time during the term of the Contract and any extensions of it.

#### **3.6.4.3. Security Badges and Vehicle Permits**

Each employee whom Contractor wishes to have access to a DOWM facility must submit a signed, completed "Area Access Application" to the DOWM to receive a DOWM Security Badge. If Contractor wishes a vehicle to have access to a DOWM facility, Contractor must submit a vehicle access application for that vehicle. The applications will solicit such information as the Commissioner may require in his discretion, including name, address, date of birth (and for vehicles, driver's license and appropriate stickers). The Contractor is responsible for requesting and completing these forms for each employee who will be working at DOWM facilities and all vehicles to be used on the job site. The Commissioner may grant or deny the application in his sole discretion. The Contractor must make available to the Commissioner, within one (1) day of request, the personnel file of any employee who will be working on the project.

At the Commissioner's request, the Contractor and Subcontractor must maintain an employment history of employees going back five years from the date Contractor began Work or Services on the project. If requested, Contractor must certify that it has verified the employment history as required on the form designated by the Commissioner. Contractor must provide the City, at its request, a copy of the employment history for each employee. Employment history is subject to audit by the City.

DOWM Security Badges and Vehicle Permits will only be issued based upon properly completed Area Access Application Forms. Employees or vehicles without proper credentials will not be allowed on DOWM property.

The following rules related to Security Badges and Vehicle Permits must be adhered to:

- A. Each employee must wear and display the DOWM Security Badge issued to that employee on his or her outer apparel at all times.
- B. At the sole discretion of the Commissioner and law enforcement officials, including but not limited to the Chicago Police Department, Cook County Sheriffs Office, Illinois State Police or any other municipal, state or federal law enforcement agency, all vehicles (and their contents) are subject to interior and/or exterior inspection entering or exiting DOWM facilities, and all employees and other individuals entering or exiting DOWM facilities are subject to searches. Vehicles may not contain any materials other than those needed for



the project. The Commissioner may deny access to any vehicle or individual in his sole discretion.

- C. All individuals operating a vehicle on DOWM property must be familiar and comply with motor driving regulations and procedures of the State of Illinois and the City of Chicago. The operator must be in possession of a valid, state-issued Motor Vehicle Operator's Driver License.
- D. All required City stickers and State Vehicle Inspection stickers must be valid.
- E. Individuals must remain within their assigned area and haul routes unless otherwise instructed by the City.
- F. Access to the Work sites will be as shown or designated on the Contract Documents Drawings or determined by the Commissioner. The Commissioner may deny access when, in his sole discretion, the vehicle or individual poses some security risk to DOWM.

#### **3.6.4.4. Gates and Fences**

Whenever the Contractor receives permission to enter DOWM property in areas that are exit/entrance points not secured by the City, the Contractor may be required to provide gates that comply with DOWM design and construction standards. Contractor must provide a licensed and bonded security guard, subject to the Commissioner's approval and armed as deemed necessary by the Commissioner, at the gates when the gates are in use. DOWM Security will provide the locks. Failure to provide and maintain the necessary security will result in an immediate closure by DOWM personnel of the point of access.

Stockpiling materials and parking of equipment or vehicles near DOWM security fencing is prohibited.

Any security fencing, gates, or alarms damaged by the Contractor or its Subcontractors must be manned by a licensed and bonded security guard of the Contractor at Contractor's expense until the damaged items are restored. Contractor must restore them to their original condition within an eight (8) hour period from the time of notice given by the Commissioner.

Temporary removal of any security fencing, gate or alarm to permit construction must be approved by the Commissioner, and Contractor must man the site by a licensed and bonded security guard, approved by and armed as deemed necessary by the Commissioner, at Contractor's expense, on a twenty-four (24) hour basis during the period of temporary removal. Contractor must restore the items removed to their original condition when construction is completed.

#### **3.6.4.5. Hazardous or Illegal Materials**

Unauthorized hazardous or illegal materials, including but not limited to hazardous materials as defined in 49 C.F.R. Parts 100-185 (e.g. explosives, oxidizers, radiological materials, infectious materials), contraband, firearms and other weapons, illegal drugs and drug paraphernalia, may not be taken on DOWM property. Alcoholic beverages are also prohibited.

#### **ARTICLE 4. SPECIAL CONDITIONS FOR SUPPLY CONTRACTS**

##### **4.1. Blanket Releases / Purchase Orders**

Unless otherwise provided in the Scope of Work and Detailed Specifications, orders for products to be provided under this Contract will be in the form of a written City of Chicago Blanket Release (a.k.a. purchase order, purchase order release, sub-order, or sub-order release) that will be issued by the Department and sent to the Contractor. Blanket Releases will indicate the specification number, Contract/purchase order number, product description, quantities ordered for each line item, unit cost, total cost, shipping address, delivery date, fund chargeable information and other pertinent instructions regarding delivery.

For Blanket Releases issued before a price increase effective date, if this Contract provides for price increases, Contractor must honor Contract prices listed on the Blanket Release, even if the Blanket Release specifies multiple shipments with delivery dates that are scheduled after the effective date of the price increase.

The Contractor must not honor any verbal order(s) or make any deliveries without receipt of a written Blanket Release issued by the Department. Any items provided by the Contractor without a written Blanket Release are made at the Contractor's risk. Consequently, in the event a written Blanket Release is not provided by the City, the Contractor releases the City from any liability whatsoever to pay for any items provided without a written Blanket Release.

##### **4.2. Delivery and Acceptance**

###### **4.2.1. Delivery**

As stated above, Contractor must not make any deliveries without a written City of Chicago Blanket Release issued by the appropriate department. Upon receipt of a Blanket Release, deliveries must be made to the location(s) listed in the Scope and Detailed Specifications or other location specified by the Commissioner or CPO in the written purchase order. Unless otherwise clearly and specifically provided in the Detailed Specifications or the written purchase order, all deliveries will be F.O.B. destination (City of Chicago).

Contractor understands and agrees that the initial acceptance of any delivery will not be considered as a waiver of any provision of this Contract and will not relieve the Contractor of its obligation to supply satisfactory goods which conform to the Contract.

###### **4.2.2. Inspection and Defects**

The City will have the right to inspect any products to be provided by Contractor under this Contract. Upon delivery of the products, the City will conduct an in-depth initial visual examination solely for the purpose of identifying gross and obvious damage, defects or non-conformance with specifications. The Contractor's representative may be present for the initial examinations. This does not limit the City's right to conduct subsequent inspection of the products delivered.

If defects or omissions are discovered in the initial or subsequent inspections, the City may exercise any or all of the following remedies, in addition to any other remedies specified in this agreement:

- Refuse acceptance of any/all units.
- Require the Contractor to make corrections at Contractor's expense, either on-site or at Contractor's place of business, whether or not the term of the Contract has expired.
- Require the Contractor to replace the units at Contractor's expense.
- Require the Contractor to reimburse the City for the cost of inspection.

Any and all labor and materials which may be required to correct or replace damaged, defective or non-conforming products must be provided by the Contractor at no cost to the City. The Contractor must correct or replace the incorrect, damaged or defective or non-conforming items within seven (7) business days of the return unless otherwise provided in the Detailed Specifications. The City of Chicago will not be subject to restocking charges.

Failure to correct or replace unacceptable goods, or repeated delivery of unacceptable goods, will be an event of default under this Contract

#### **4.2.3. Shipment errors**

The Contractor will be responsible for any errors in shipments that are the fault of the Contractor. The Contractor must make arrangements with their common carrier or company personnel to pick-up, at Contractor's expense, any un-ordered products, over-shipments of product, or products that otherwise do not comply with the applicable purchase order within forty-eight (48) hours after notification by the Department. Contractor must promptly supply any under-shipment of product promptly after notification by the Department.

The City of Chicago will not be subject to restocking charges due to shipment errors

Repeated errors in shipments will be an event of default under this Contract

#### **4.2.4. Acceptance**

Products provided under this Contract will be deemed to be accepted by the City thirty days after delivery, unless previously rejected. The City may revoke acceptance if items are later discovered to be non-conforming or if the non-conformity is not remedied by the Contractor as expected by the City, even if the value of the item(s) is not substantially decreased due to the non-conformity.

#### **4.3. Centralized Invoice Processing**

Unless stated otherwise in the Detailed Specifications, this Contract is subject to Centralized Invoice Processing ("CIP"). Invoices must be submitted directly to the Comptroller's office by US Postal Service mail to the following address as appropriate:

*Invoices for any City department other than the Department of Aviation:*

Invoices  
City of Chicago, Office of the City Comptroller  
121 N. LaSalle St., Room 700, City Hall  
Chicago, IL 60602

*Invoices for the Department of Aviation:*

Chicago Department of Aviation  
10510 W. Zemke Blvd.  
P.O. Box 66142  
Chicago, IL 60666  
Attn: Finance Department

OR

Invoices for any department, including Aviation, may be submitted via email to [invoices@cityofchicago.org](mailto:invoices@cityofchicago.org) with the word "INVOICE" in the subject line.

All invoices must be signed, marked "original," and include the following information or payment will be delayed

- Invoice number and date
- Contract/Purchase Order number
- Blanket Release number (if applicable)
- Vendor name and/or number
- Remittance address
- Name of City Department that ordered the goods or services
- Name and phone number of your contact at the ordering department
- Invoice quantities, commodity codes, description of deliverable(s)

#### **4.5.3. Substitution**

In cases of product unavailability or other conditions beyond the control of the Contractor arising after contract award, Contractor may request to provide substitutes for the products specified in the Detailed Specifications.

Each request for substitution must be submitted separately and must include sufficient information that, in the Commissioner's sole judgment and discretion, enables the Commissioner to determine the suitability of the proposed substitute for the specified product. The information must include:

- (a) Product identification, including manufacturer's name and address.
- (b) Manufacturer's literature including
  - i) Product description
  - ii) Reference standards
  - iii) Performance and test data
- (c) Samples, as applicable. Samples must be at no charge and will not be returned.
- (d) Name and address of similar user of the product and date of usage.
- (e) Itemized comparison of the proposed alternate item with specified item listing significant variations.

The Contractor warrants and represents that in making a formal request for substitution that: (1) the proposed substitution is equivalent to or superior in all respects to the product specified, (2) the same warranties and guarantees will be provided for the substitute as for the product specified. Any additional cost, or any loss or damage, arising from the substitution of any products for those specified shall be borne by the Contractor.

The Commissioner may, in his or her sole discretion, accept an alternate product for a specified product, provided the alternate product is, in the Commissioner's sole opinion, the equivalent of the product specified in the Detailed Specifications. The Commissioner will not entertain more than one request for substitution per year except in cases of product unavailability or other conditions beyond the control of the Contractor.

#### **4.5.4. Testing Laboratory Labels**

All products containing electrical wiring must conform to the City Electrical Code, which requires such products to be approved and so labeled by a testing laboratory acceptable under the Chicago Electrical Code Section 14-64-010.

#### **4.6. Manufacturer's Warranty & Product Information**

Contractor must have, and must demonstrate upon request or as required by the Detailed Specifications, that it has authorization to transfer product warranties to the City of Chicago. The Contractor is required to provide and transfer all documentation issued by the manufacturer for the items to be provided under this agreement. This includes the manufacturer's genuine parts/product information, recall notices, manuals, licenses, assemblies and/or accessories as supplied by the original equipment manufacturer (O.E.M.).

The Contractor must provide the original product warranty and related services for the products provided under this Contract in accordance with the standard warranty regularly provided by the OEM for that product, unless the Detailed Specifications call for a different warranty.

#### **4.7. Contractor's Warranties**

The Contractor warrants that the title to the products to be provided under this agreement is good and its transfer is rightful, and that the products will be delivered to the City free from all liens or any security interest or other encumbrance.

In addition to all warranties that may be implied by law, the items shall conform to specifications, drawings, and other requirements in the Detailed Specifications and shall be free from defects in materials and

workmanship. Contractor also warrants that they will be free from defects in design except to the extent that they are non-standard products manufactured pursuant to detailed designs furnished by the City and the defect is in the portion of the design furnished by the City. Such warranties, including warranties implied by law, shall run to City, its successors, assigns, customers, and to users of the goods.

## **ARTICLE 5. SCOPE OF WORK AND DETAILED SPECIFICATIONS**

### **5.1. General**

The Contractor must furnish and deliver Bottled Drinking Water, Distilled Water & Water Cooler Rentals as specified, proposed and accepted F.O.B., City of Chicago, Department of Streets and Sanitation or any other City Using Departments, in accordance with all the terms and conditions of this specification

### **5.2. Intent**

The Contractor will provide Bottled Drinking Water, Distilled Water and Water Cooler Rentals to Various Using Departments and facilities within the City that do not have access to drinkable, running water.

### **5.3. No Stated Goals for MBE/WBE Participation**

It is the policy of the City of Chicago that local businesses certified as Minority-owned Business Enterprises (MBE) and Women-owned Business Enterprises (WBE) in accordance with Section 2-92-450 of the Municipal Code of Chicago and Regulations Governing Certification of Minority and Women-owned Businesses shall have the maximum opportunity to participate fully in the performance of all City contracts.

The Chief Procurement Officer has determined that the nature of the goods and/or services to be provided under this Contract are such that neither direct nor indirect subcontracting opportunities will be practicable or cost-effective. Therefore, there will be no stated goals for MBE/WBE participation in this Contract. This determination is being made pursuant to Section 2-92-450 of the Municipal Code of Chicago

### **5.4. Basis of Award**

In the event that a contract is awarded pursuant to this specification, the Chief Procurement Officer will award such contract to the lowest responsive and responsible bidder as determined by the bid price, including any statutorily mandated adjustments to the bid price as applicable, meeting the terms and conditions set out in the Bid Documents. Extended Prices will be determined by multiplying the estimated quantity by the unit price for each line item. The unit of measure for line items will be based on "each" item.

The Contractor's bid pricing will incorporate any/all peripheral costs including, but not limited to the costs of Bottled Drinking Water, Distilled Water and Water Cooler Rentals, delivery/transportation charges, training, materials, labor, insurance, applicable taxes, warranty, overhead and profit, etc. that are required by this Specification.

### **5.5. Inventory/Lead Time**

The Contractor must maintain an inventory of sufficient diversity and quantity as to ensure the delivery of any Bottled Drinking Water, Distilled Water & Water Cooler Rentals listed in the Proposal, within seventy-two (72) hours after receipt of a City departments order. In lieu of the inventory, the Contractor must be able to arrange such prompt delivery.

In the instance of an emergency situation, the Contractor must maintain an inventory of sufficient diversity and quantity as to ensure the delivery of any Bottled Drinking Water, Distilled Water and Water Cooler Rentals listed in the Proposal within two (2) hours or less.

Failure of the Contractor to meet the above stated delivery requirements will be an event of default under this contract, and may further affect the Contractors eligibility for future contract awards.

The Contractor's compliance with these requirements will be determined by the Chief Procurement Officer, whose decision will be binding.

### **5.6. Inside Delivery**

Deliveries of Bottled Drinking Water, Distilled Water and Water Cooler Rentals must be made F.O.B., City of Chicago, Various Using Departments, any point within the City at no charge to the City, regardless of the Purchase Order Release amount. The Contractor must provide inside deliveries to the City of Chicago Using Departments, City of Chicago Sister Agencies and any Mobile Office Trailers. The Contractor must call the Department prior to any delivery to verify the proper entrance to their location before delivery.

Contractor must not leave delivery of any Bottled Drinking Water, Distilled Water and Water Cooler Rentals outside a corridor/hall or outside of the premises unless specified by the Department.

Any Bottled Drinking Water, Distilled Water and Water Cooler Rentals delivered must be unloaded by the Contractor's personnel and delivered to the location designated by the Department. Deliveries must be made between the hours of 8:00 a.m. to 2:00 p.m., Monday through Friday, excluding any legal holidays. Bottled Drinking Water, Distilled Water and Water Cooler Rentals must be delivered within seventy-two (72) hours after receipt of purchase order release

#### **5.7. Unit Prices**

The unit prices for the Bottled Drinking Water, Distilled Water and Water Cooler Rentals listed on the Proposal Pages, must be inclusive all charges for delivery, pick up and handling, regardless of the location of the delivery point or amount of purchase order release.

#### **5.8. Bottled Water Details**

The Bottled Water must meet the following Regulatory Standards of the FDA and the U.S. Environmental Protection Agency (EPA) for Bottled Drinking Water:

**21 CFR** Labeling regulations for foods in general also apply to bottled water. It is worth noting that bottled water is one of the few foods for which FDA has developed specific CGMP regulations or such a detailed standard of quality.

**21 CFR Part 129** These regulations require that bottled water be safe and that it be processed, bottled, held and transported under sanitary conditions. Processing practices addressed in the CGMP regulations include protection of the water source from contamination, sanitation at the bottling facility, quality control to assure the bacteriological and chemical safety of the water and sampling and testing of source water and the final product for microbiological chemical and radiological contaminants. The Contractor must maintain source approval and testing records to show to any government inspectors.

**21 CFR 165.110** This establishes a standard of identity and a standard of quality for bottled water. Under this standard the FEA describes bottled water as water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients except that it may contain safe and suitable antimicrobial agents. Fluoride also may be added within the limits set by the FDA.

#### **5.9. Material Details**

Line# 1 - Drinking Water - 16.9 oz Bottles in a case of 24

Line# 2 - Drinking Water - 5 Gallon Bottles

Line# 3 - Distilled Water - 1 Gallon Bottles

Line# 4 - Distilled Water - 5 Gallon Bottles

Line# 5 - Rental of Hot and Cold Water Coolers without Refrigerators

#### **5.10. Rental Of Hot And Cold Water Coolers Without Refrigerators - Line #5**

Water cooler must serve both cold water and piping hot water. It must be compact to occupy one square foot of floor space. Bottled Water Coolers must be able to dispense three (3) and five (5) Gallon Drinking Bottle Water/Distilled Water.

Size - 12-1/4" wide x 12-1/4" deep X 38-1/2" high

Faucets - Durable Polypropylene. Self-closing push button type.

Cold Water Reservoir - Type three hundred and four (304) stainless steel or equivalent. External copper refrigerant coil. Reservoir insulation in removable, molded, expanded bead polystyrene.

Thermostat- Should contain an adjustable thermostat with "Off" position for cold water.

Drip Tray- Removable Drip Tray for easy clean-up

Child safety Guard on hot water valve.

Hot Water Thermostat- Water temperature is controlled to nearly 180° F by automatic thermostat. Should contain an on-off switch.

#### **5.11. Receipts**

Each Bottled Drinking Water, Distilled Water and Water Cooler Rentals receipt must indicate a reference number, commodity code, date, account name, pick-up location and a city employee's name. Each month the Contractor must provide to the Department(s) a copy of statement of all Bottled Drinking Water, Distilled Water and Water Cooler Rentals receipts issued to each department enclosed with an invoice, for a two-way match up. The invoice must also include the City of Chicago preparer's name and telephone number.

#### **5.12. Water Coolers**

Electric Water Coolers must be furnished and installed as required at no additional charge to the City other than the monthly rental rate. The monthly rental rate will be the unit price stated for the Rental of Water Coolers in Bid Lines five (5), six (6) and seven (7). The Rental Rate will include any and all maintenance, repair and parts that may be required while the Cooler is in the possession of the City.

#### **5.13. Water Cooler Maintenance Replacement**

The Contractor must clean and disinfect or replace all Water Coolers every twelve (12) months from the award of the contract. The Contractor must repair or replace Electric Water Coolers with or without a refrigerator which do not function properly within two (2) business days after receipt of Department's notification. No rental will be paid beginning two (2) days after notification of cooler not functioning properly if such Cooler has not been repaired or replaced or continues not to function properly. New Water Coolers must be equipped in a manner that punctures the seal on water bottle when placed in cooler.

Failures by the Contractor to meet the above stated requirements may be used by the City as grounds for default of the Contract, and may further affect the Contractor's eligibility for future Contract awards.

The Contractor's compliance with these requirements will be determined by the Chief Procurement Officer, whose decision will be binding.

#### **5.14. Removal Of Water Coolers**

The Contractor will not be responsible for removal of any water rental coolers currently in use before the installation of the new coolers under this Contract.

At the end of the Contract or termination of the Contract, the Contractor will make arrangements with the Departments to arrange for pick-up of rental coolers, unused bottled water or empty bottled water containers.

The Contractor will provide each Department a copy or log of each cooler rented by that Department with location and serial number. The Contractor will maintain the upkeep of their inventory list. At the end of the Contract all rental coolers will be accounted for per updated inventory list provided when the last delivery of the rental cooler was installed and as approved by the Chief Procurement Officer.

The Departments will make the necessary arrangements for the installation and arrangement of all pick-ups at the end of the Contract period.

#### **5.15. Mis-shipments/Defective Merchandise**

The Contractor will be responsible for any incorrect or damaged shipments and defective merchandise. The Contractor must make arrangements with their common carrier or company personnel to pick-up any unacceptable Bottled Drinking Water, Distilled Water & Water Cooler Rentals within forty-eight (48) hours of notification.

The Contractor must replace the incorrect, damaged or defective merchandise or issue a credit within three (3) business days of the return. If the replacement merchandise or a credit is not received within three (3) business days, the City will deduct the amount of the return from any outstanding invoice at the time of payment.

The City of Chicago will not be subject to restocking charges due to Contractor error.

#### **5.16. Exceptions**



Any deviations from these specifications must be noted on the Proposal Page or pages attached thereto, with the exact nature of the change outlined in sufficient detail. The reason for which deviations were made should also follow if not self-explanatory. Failure of a bidder to comply with the terms of this paragraph may be cause for rejection.

The City reserves the right to disqualify bids which do not completely meet outlined specifications. The impact of exceptions to the specification will be evaluated by the City in determining its need.

#### **5.17. Additional Requirements**

##### **5.17.1. Contract Term**

The Initial Term for this Contract will be sixty (60) months, unless terminated earlier pursuant to the Termination provision, or extended according to the terms of the Term Extension provision.

The City will establish the start and expiration dates at the time of formal award and release of this contract.

The start date will be no later than the first day of the succeeding month from the date shown as the Contract Award and Release Date on the Proposal Acceptance Page.

##### **5.17.2. Term Extension**

The City has the option to unilaterally extend the term of this Contract following the expiration of the Initial Term, for up to thirty-six (36) months, subject to acceptable performance by the Contractor and contingent upon the appropriation of sufficient funds. The option may be exercised as a single thirty-six month extension or as up to three separate extensions, each with a term no less than twelve months.

No less than sixty (60) calendar days before the expiration of the Initial Term, or if previously extended, the expiration of the term as extended, the Chief Procurement Officer will give the Contractor notice of the City's intent to exercise its option to renew the Contract. The date on which the Chief Procurement Officer gives notice is the date the notice is mailed, if it is mailed, or the date the notice is delivered, if sent by courier or messenger service.

With the same amount of notice as for options, the City reserves the right to extend the contract period for a period of no more than one hundred eighty-one (181) calendar days, either in lieu of exercising an option period or following the exhaustion of all option periods, for the purpose of providing continuity of supply while procuring a replacement contract.

##### **5.17.3. Price Adjustment**

A maximum five percent (5%) annual increase may be allowed after the initial 12 month period. The Contractor must justify its request for an increase by submitting detailed price data and supporting documentation to verify the validity of price increase. The Contractor must also furnish a written statement which states that the increase represents the cost of the product and in no way includes an increase for profits or overhead. The Chief Procurement Officer may require additional information to verify the price increase.

The request for price increase must be submitted within 30 days of the twelve (12) month anniversary of the Contract start date. If the price increase request is not submitted within this timeframe, the Contractor will not be entitled to a price adjustment for the upcoming year.



**CITY OF CHICAGO**  
**Department of Procurement Services**  
**Jamie L. Rhee, Chief Procurement Officer**  
121 North LaSalle Street, Room 806  
Chicago, Illinois 60602-1284

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**COMMODITIES AND WORK SERVICES MBE & WBE SPECIAL CONDITIONS**

**ARTICLE 6. SPECIAL CONDITIONS REGARDING MINORITY BUSINESS ENTERPRISE COMMITMENT AND WOMEN BUSINESS ENTERPRISE COMMITMENT FOR COMMODITIES OR SERVICES**

**6.1. Policy and Terms**

It is the policy of the City of Chicago that Local Businesses certified as Minority Owned Business Enterprises (MBE) and Women Owned Business Enterprises (WBE) in accordance with Section 2-92-420 et seq. of the Municipal Code of Chicago and Regulations Governing Certification of Minority and Women-owned Businesses and all other Regulations promulgated under the aforementioned sections of the Municipal Code, as well as MBEs and WBEs certified by Cook County, Illinois, will have full and fair opportunities to participate fully in the performance of this contract. Therefore, the Contractor will not discriminate against any person or business on the basis of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income and will take affirmative action to ensure that women and minority businesses will have the maximum opportunity to compete for and perform subcontracts for supplies or services.

Pursuant to Section 2-92-430 of the Municipal Code of Chicago, the Chief Procurement Officer has established a goal of awarding not less than 25% of the annual dollar value of all non-construction contracts to certified MBEs and 5% of the annual dollar value of all non-construction contracts to certified WBEs.

Accordingly, the Contractor commits to make Good Faith Efforts to expend at least the following percentages of the total contract price (inclusive of any and all modifications and amendments), if awarded, for contract participation by MBEs and WBEs

MBE Percentage	WBE Percentage
0%	0%

This commitment is met by the Contractor's status as a MBE or WBE, or by a joint venture with one or more MBEs or WBEs as prime contractor (to the extent of the MBE or WBE participation in such joint venture), or by subcontracting a portion of the work to one or more MBEs or WBEs, or by the purchase of materials used in the performance of the contract from one or more MBEs or WBEs, or by the indirect participation of MBEs or WBEs in other aspects of the Contractor's business (but no dollar of such indirect MBE or WBE participation will be credited more than once against a Contractor's MBE or WBE commitment with respect to all government Contracts of such Contractor), or by any combination of the foregoing.

**Note:** MBE/WBE participation goals are separate and those businesses certified with the City of Chicago as both MBE and WBE may only be listed on a bidder's compliance plan as either a MBE or a WBE, but not both to demonstrate compliance with the Contract Specific Goals.

As noted above, the Contractor may meet all or part of this commitment by contracting with MBEs or WBEs for the provision of goods or services not directly related to the performance of this Contract. However, in determining the manner of MBE/WBE participation, the Contractor will first consider involvement of MBEs/WBEs as joint venture partners, subcontractors, and suppliers of goods and services directly related to the performance of this Contract. In appropriate cases, the Chief Procurement Officer will require the

Contractor to demonstrate the specific efforts undertaken by it to involve MBEs and WBEs directly in the performance of this Contract.

The Contractor also may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in private sector contracts.

Pursuant to 2-92-535, the prime contractor may apply be awarded an additional 0.333 percent credit, up to a maximum of a total of 5 percent additional credit, for every 1 percent of the value of a contract self-performed by MBEs or WBEs, or combination thereof, that have entered into a mentor agreement with the contractor. This up to 5% may be applied to the Contract Specific Goals, or it may be in addition to the Contract Specific Goals.

## 6.2. Definitions

**"Area of Specialty"** means the description of an MBE or WBE firm's business which has been determined by the Chief Procurement Officer to be most reflective of the MBE or WBE firm's claimed specialty or expertise. Each MBE/WBE letter of certification contains a description of the firm's Area of Specialty. This information is also contained in the Directory (defined below). Credit toward this Contract's MBE and WBE participation goals shall be limited to the participation of firms performing within their Area of Specialty.

**NOTICE:** *The City of Chicago does not make any representation concerning the ability of any MBE/WBE to perform work within their Area of Specialty. It is the responsibility of all contractors to determine the capability and capacity of MBEs/WBEs to satisfactorily perform the work proposed.*

**"B.E.P.D."** means an entity certified as a Business enterprise owned or operated by people with disabilities as defined in MCC Section 2-92-586.

**"Bid"** means a bid, proposal, or submittal detailing a description of the services or work to be provided by the contractor in response to a bid solicitation, request for proposal, request for qualification of task order request (issued in accordance with the Master Consulting Agreement) that is issued by the City.

**"Bidder"** means any person or business entity that submits a bid, proposal, qualification or submittal that seeks to enter into a contract with the City, and includes all partners, affiliates and joint ventures of such person or entity.

**"Broker"** means a person or entity that fills orders by purchasing or receiving supplies from a third party supplier rather than out of its own existing inventory and provides no commercially useful function other than acting as a conduit between his or her supplier and his or her customer.

**"Chief Procurement Officer" or "CPO"** means the chief procurement officer of the City of Chicago or his or her designee.

**"Commercially Useful Function"** means responsibility for the execution of a distinct element of the work of the contract, which is carried out by actually performing, managing, and supervising the work involved, evidencing the responsibilities and risks of a business owner such as negotiating the terms of (sub)contracts, taking on a financial risk commensurate with the contract or its subcontract, responsibility for acquiring the appropriate lines of credit and/or loans, or fulfilling responsibilities as a joint venture partner as described in the joint venture agreement.

**"Contract Specific Goals"** means the subcontracting goals for MBE and WBE participation established for a particular contract.

**"Contractor"** means any person or business entity that has entered into a contract with the City as described herein, and includes all partners, affiliates, and joint ventures of such person or entity.

**"Direct Participation"** the value of payments made to MBE or WBE firms for work that is performed in their Area of Specialty directly related to the performance of the subject matter of the Contract will count as Direct Participation toward the Contract Specific Goals.

**"Directory"** means the Directory of Certified "Minority Business Enterprises" and "Women Business Enterprises" maintained and published by the City of Chicago. The Directory identifies firms that have been certified as MBEs and WBEs, and includes both the date of their last certification and the area of specialty in which they have been certified. Contractors are responsible for verifying the current certification status of all proposed MBE, and WBE firms.

**"Good Faith Efforts"** means actions undertaken by a bidder or contractor to achieve a Contract Specific Goal that the CPO or his or her designee has determined, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program's requirements.

**"Indirect Participation"** refers to the value of payments made to MBE or WBE firms for work that is done in their Area of Specialty related to other aspects of the Contractor's business. (Note: no dollar of such indirect MBE or WBE participation shall be credited more than once against a contractor's MBE or WBE commitment with respect to all government contracts held by that contractor )

**"Joint venture"** means an association of a MBE or WBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which each joint venture partner contributes property, capital, efforts, skills and knowledge, and in which the MBE or WBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

**"Mentor-Protégé Agreement"** means an agreement between a prime and MBE or WBE subcontractor pursuant to MCC 2-92-535, that is approved by the City of Chicago and complies with all requirements of MCC 2-92-535 and any rules and regulations promulgated by the Chief Procurement Officer.

**"Minority Owned Business Enterprise" or "MBE"** means a firm awarded certification as a minority owned and controlled business in accordance with City Ordinances and Regulations as well as a firm awarded certification as a minority owned and controlled business by Cook County, Illinois.

**"Municipal Code of Chicago" or "MCC"** means the Municipal Code of the City of Chicago

**"Supplier" or "Distributor"** refers to a company that owns, operates, or maintains a store, warehouse or other establishment in which materials, supplies, articles or equipment are bought, kept in stock and regularly sold or leased to the public in the usual course of business. A regular distributor or supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for performance of a contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular distributor the firm must engage in, as its principal business and in its own name, the purchase and sale of the products in question. A regular distributor in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns or operates distribution equipment.

**"Women Owned Business Enterprise" or "WBE"** means a firm awarded certification as a women owned and controlled business in accordance with City Ordinances and Regulations as well as a firm awarded certification as a women owned business by Cook County, Illinois.

### 6.3. Joint Ventures

The formation of joint ventures to provide MBEs and WBEs with capacity and experience at the prime contracting level, and thereby meet Contract Specific Goals (in whole or in part) is encouraged. A joint venture may consist of any combination of MBEs, WBEs, and non-certified firms as long as one member is an MBE or WBE.

- a. The joint venture may be eligible for credit towards the Contract Specific Goals only if:
  - i. The MBE or WBE joint venture partner's share in the capital contribution, control, management, risks and profits of the joint venture is equal to its ownership interest;
  - ii. The MBE or WBE joint venture partner is responsible for a distinct, clearly defined portion of the requirements of the contract for which it is at risk;

- III. Each joint venture partner executes the bid to the City; and
- IV. The joint venture partners have entered into a written agreement specifying the terms and conditions of the relationship between the partners and their relationship and responsibilities to the contract, and all such terms and conditions are in accordance with the conditions set forth in Items I, II, and III above in this Paragraph a.

- b. The Chief Procurement Officer shall evaluate the proposed joint venture agreement, the Schedule B submitted on behalf of the proposed joint venture, and all related documents to determine whether these requirements have been satisfied. The Chief Procurement Officer shall also consider the record of the joint venture partners on other City of Chicago contracts. The decision of the Chief Procurement Officer regarding the eligibility of the joint venture for credit towards meeting the Contract Specific Goals, and the portion of those goals met by the joint venture, shall be final.

The joint venture may receive MBE or WBE credit for work performed by the MBE or WBE joint venture partner(s) equal to the value of work performed by the MBE or WBE with its own forces for a distinct, clearly defined portion of the work

Additionally, if employees of the joint venture entity itself (as opposed to employees of the MBE or WBE partner) perform the work, then the value of the work may be counted toward the Contract Specific Goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in Schedule B.

The Chief Procurement Officer may also count the dollar value of work subcontracted to other MBEs and WBEs. Work performed by the forces of a non-certified joint venture partner shall not be counted toward the Contract Specific Goals.

c. **Schedule B: MBE/WBE Affidavit of Joint Venture**

Where the bidder's Compliance Plan includes the participation of any MBE or WBE as a joint venture partner, the bidder must submit with its bid a Schedule B and the proposed joint venture agreement. These documents must both clearly evidence that the MBE or WBE joint venture partner(s) will be responsible for a clearly defined portion of the work to be performed, and that the MBE's or WBE's responsibilities and risks are proportionate to its ownership percentage. The proposed joint venture agreement must include specific details related to:

- i. The parties' contributions of capital, personnel, and equipment and share of the costs of insurance and bonding;
- ii. Work items to be performed by the MBE's or WBE's own forces and/or work to be performed by employees of the newly formed joint venture entity,
- iii. Work items to be performed under the supervision of the MBE or WBE joint venture partner; and
- iv. The MBE's or WBE's commitment of management, supervisory, and operative personnel to the performance of the contract

**NOTE:** Vague, general descriptions of the responsibilities of the MBE or WBE joint venture partner do not provide any basis for awarding credit. For example, descriptions such as "participate in the budgeting process," "assist with hiring," or "work with managers to improve customer service" do not identify distinct, clearly defined portions of the work. Roles assigned should require activities that are performed on a regular, recurring basis rather than as needed. The roles must also be pertinent to the nature of the business for which credit is being sought. For instance, if the scope of work required by the City entails the delivery of goods or services to various sites in the City, stating that the MBE or WBE joint venture partner will be responsible for the performance of all routine maintenance and all repairs required to the vehicles used to deliver such goods or services is pertinent to the nature of the business for which credit is being sought.

#### 6.4. Counting MBE/WBE Participation Toward the Contract Specific Goals

Refer to this section when preparing the MBE/WBE compliance plan and completing Schedule D-1 for guidance on what value of the participation by MBEs and WBEs will be counted toward the stated Contract Specific Goals. The "Percent Amount of Participation" depends on whether and with whom a MBE or WBE subcontracts out any portion of its work and other factors.

Firms that are certified as both MBE and WBE may only be listed on a bidder's compliance plan as either a MBE or a WBE to demonstrate compliance with the Contract Specific Goals. For example, a firm that is certified as both a MBE and a WBE may only be listed on the bidder's compliance plan under one of the categories, but not both. Only Payments made to MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements above will be counted toward the Contract Specific Goals.

- a. Only expenditures to firms that perform a Commercially Useful Function as defined above may count toward the Contract Specific Goals.
  - i. The CPO will determine whether a firm is performing a commercially useful function by evaluating the amount of work subcontracted, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the credit claimed for its performance of the work, industry practices, and other relevant factors.
  - ii. A MBE or WBE does not perform a commercially useful function if its participation is only required to receive payments in order to obtain the appearance of MBE or WBE participation. The CPO may examine similar commercial transactions, particularly those in which MBEs or WBEs do not participate, to determine whether non MBE and non WBE firms perform the same function in the marketplace to make a determination.
  - iii. Indications that a subcontractor is not performing a commercially useful function include, but are not limited to, labor shifting and equipment sharing or leasing arrangements with the prime contractor or a first tier subcontractor.
- b. Only the value of the dollars paid to the MBE or WBE firm for work that it performs in its Area of Specialty in which it is certified counts toward the Contract Specific Goals.
- c. For maintenance, installation, repairs or inspection, or professional services, if the MBE or WBE performs the work itself: 100% of the value of work actually performed by the MBE's or WBE's own forces shall be counted toward the Contract Specific Goals, including the cost of supplies and materials purchased or equipment leased by the MBE or WBE from third parties or second tier subcontractors in order to perform its (sub)contract with its own forces (except supplies and equipment the MBE or WBE subcontractor purchases or leases from the prime contractor or its affiliate). 0% of the value of work at the project site that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals.
- d. If the MBE or WBE is a manufacturer: 100% of expenditures to a MBE or WBE manufacturer for items needed for the Contract shall be counted toward the Contract Specific Goals. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the bidder or contractor.
- e. If the MBE or WBE is a distributor or supplier: 60% of expenditures for materials and supplies purchased from a MBE or WBE that is certified as a regular dealer or supplier shall be counted toward the Contract Specific Goals.
- f. If the MBE or WBE is a broker:
  - i. Zero percent (0%) of expenditures paid to brokers will be counted toward the Contract Specific Goals.
  - ii. As defined above, Brokers provide no commercially useful function.

**g. If the MBE or WBE is a member of the joint venture contractor/bidder:**

- i. A joint venture may count the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the MBE or WBE performs with its own forces toward the Contract Specific Goals; or
- ii. If employees of this distinct joint venture entity perform the work then the value of the work may be counted toward the Contract Specific Goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in the Schedule B.
- iii. A joint venture may also count the dollar value of work subcontracted to other MBEs and WBEs.

**h. If the MBE or WBE subcontracts out any of its work:**

- i. 100% of the value of the work subcontracted to other MBEs or WBEs performing work in its Area of Specialty may be counted toward the Contract Specific Goals
- ii. 0% of the value of work that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals (except as allowed by (c) above).
- iii. The fees or commissions charged for providing a bona fide service, such as professional, technical, consulting or managerial services or for providing bonds or insurance and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- iv. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- v. The fees or commissions charged for providing any bonds or insurance, but not the cost of the premium itself, specifically required for the performance of the Contract, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services

**6.5. Regulations Governing Reductions to or Waiver of MBE/WBE Goals**

The following Regulations set forth the standards to be used in determining whether or not a reduction or waiver of the MBE/WBE commitment goals of a particular contract is appropriate. If a bidder determines that it is unable to meet the MBE and/or WBE Contract-Specific Goals on a City of Chicago contract, a written request for the reduction or waiver of the commitment must be included in the bid or proposal.

The written request for reduction or waiver from the commitment must be in the form of a signed petition for grant of relief from the MBE/WBE percentages submitted on the bidder's letterhead, and must demonstrate that all required efforts as set forth in this document were taken to secure eligible Minority and Women Business Enterprises to meet the commitments. The Chief Procurement Officer or designee shall determine whether the request for the reduction or waiver will be granted.

A bidder will be considered responsive to the terms and conditions of these Regulations if, at the time of bid, it submits a waiver request and all supporting documentation that adequately addresses the conditions for waiver of MBE/WBE goals, including proof of notification to assist agencies except:

- Bidders responding to Request for Proposals (RFPs) who have been identified as a short listed candidate and/or a prospective awardee will be given a designated time allowance, but no more than

fourteen (14) calendar days to submit to the Department of Procurement Services complete documentation that adequately addresses the conditions for waiver described herein; and

- Bidders responding to Request for Information and or Qualifications (RFI/RFQs) deemed by the Chief Procurement Officer or authorized designee to be the most responsive and responsible shall submit documentation that adequately addresses the conditions for waiver described herein during negotiations.

Failure to submit documentation sufficient to support the waiver request will cause the bid/proposal to be found non-responsive by the Chief Procurement Officer, and the bid/proposal will be rejected. In such cases the remedies to be taken by the Chief Procurement Officer, in his or her discretion, may include, but are not limited to, forfeiture of bid deposit, negotiating with the next lowest bidder, or re-advertising the bid/proposal. All bidders must submit all required documents at the time of bid opening to expedite the contract award.

#### **6.5.1. Direct / Indirect Participation**

Each of the following elements must be present in order to determine whether or not such a reduction or waiver is appropriate.

- a. The bidder has documented the unsuccessful solicitation for either subcontractors or joint venture partners of at least 50% (or at least five when there are more than eleven certified firms in the commodity area) of the appropriate certified MBE/WBE firms to perform any direct or indirect work identified or related to the advertised bid/proposal. Documentation must include but is not necessarily limited to:
  1. A detailed statement of efforts to identify and select portions of work identified in the bid solicitation for subcontracting to certified MBE/WBE firms;
  2. A listing of all MBE/WBE firms contacted that includes
    - o Name, address, telephone number and email of MBE/WBE firms solicited,
    - o Date and time of contact,
    - o Method of contact (written, telephone, transmittal of facsimile documents, email, etc )
  3. Copies of letters or any other evidence of mailing that substantiates outreach to MBE/WBE vendors that includes
    - o Project identification and location;
    - o Classification/commodity of work items for which quotations were sought,
    - o Date, item and location for acceptance of subcontractor bid proposals;
    - o Detailed statement which summarizes direct negotiations with appropriate MBE/WBE firms for specific portions of the work and indicates why negotiations were unsuccessful,
    - o Affirmation that Good Faith Efforts have been demonstrated by:
      - choosing subcontracting opportunities likely to achieve MBE/WBE goals;
      - not imposing any limiting conditions which were not mandatory for all subcontractors,



- providing notice of subcontracting opportunities to M/WBE firms and assist agencies at least five (5) business days in advance of the initial bid due date.

OR

b Subcontractor participation will be deemed excessively costly when the MBE/WBE subcontractor proposal exceeds the average price quoted by more than twenty percent (20%). In order to establish that a subcontractor's quote is excessively costly, the bidder must provide the following information

1. A detailed statement of the work identified for MBE/WBE participation for which the bidder asserts the MBE/WBE quote(s) were excessively costly (in excess of 20% higher).
  - o A listing of all potential subcontractors contacted for a quotation on that work item;
  - o Prices quoted for the subcontract in question by all such potential subcontractors for that work item
2. Other documentation which demonstrates to the satisfaction of the Chief Procurement Officer that the MBE/WBE proposals are excessively costly, even though not in excess of 20% higher than the average price quoted. This determination will be based on factors that include, but are not limited to the following:
  - o The City's estimate for the work under a specific subcontract;
  - o The bidder's own estimate for the work under the subcontract;
  - o An average of the bona fide prices quoted for the subcontract,
  - o Demonstrated increase in other contract costs as a result of subcontracting to the M/WBE or other firm

#### **6.5.2. Assist Agency Participation in waiver/reduction requests**

Every waiver and/or reduction request must include evidence that the bidder has provided timely notice of the need for subcontractors to an appropriate association/assist agency representative of the MBE/WBE business community. This notice must be given at least five (5) business days in advance of the initial bid due date.

The notice requirement of this Section will be satisfied if a bidder contacts at least one of the associations on Attachment A to these Regulations when the prime contractor seeks a waiver or reduction in the utilization goals. Attachment B to these Regulations provides the letter format that a prime contractor may use. Proof of notification prior to bid submittal (e.g. certified mail receipt or facsimile transmittal receipt) will be required to be submitted with the bid for any bid/proposal to be deemed responsive. If deemed appropriate, the Contract Compliance Officer may contact the assist agency for verification of notification.

#### **6.5.3. Impracticability**

If the Chief Procurement Officer determines that a lesser MBE and/or WBE percentage standard is appropriate with respect to a particular contract subject to competitive bidding prior to the bid solicitations for such contract, bid specifications shall include a statement of such revised standard.

The requirements set forth in these Regulations (this subsection 6.5 "Regulations Governing Reductions to or Waiver of MBE/WBE Goals") shall not apply where the Chief Procurement Officer determines prior to the bid solicitations that MBE/WBE subcontractor participation is impracticable

This may occur whenever the Chief Procurement Officer determines that for reasons of time, need, industry practices or standards not previously known by the Chief Procurement Officer, or such other extreme circumstances as may be deemed appropriate, such a Waiver is in the best interests of the City. This determination may be made in connection with a particular contract, whether before the contract is let for bid, during the bid or award process, before or during negotiation of the contract, or during the performance of the contract.

For all notifications required to be made by bidders, in situations where the Chief Procurement Officer has determined that time is of the essence, documented telephone contact may be substituted for letter contact.

#### **6.6. Procedure to Determine Bid Compliance**

A bid may be rejected as non-responsive if it fails to submit one or more of the following with its bid demonstrating its Good Faith Efforts to meet the Contract Specific Goals by reaching out to MBEs and WBEs to perform work on the contract:

- An MBE/WBE compliance plan demonstrating how the bidder plans to meet the Contract Specific Goals, and/or
- A request for reduction or waiver of the Contract Specific Goals in accordance with Section 2-92-450 of the MCC.

Only compliance plans utilizing MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements will be counted toward the Contract Specific Goals.

The following Schedules and described documents constitute the bidder's MBE/WBE proposal, and must be submitted in accordance with the guidelines stated:

**(1) Schedule C-1: Letter of Intent from MBE/WBE to Perform as Subcontractor, Supplier and/or Consultant.**

The bidder must submit the appropriate Schedule C-1 with the bid for each MBE and WBE included on the Schedule D-1. Suppliers must submit the Schedule C-1 for Suppliers, first tier subcontractors must submit a Schedule C-1 for Subcontractors to the Prime Contractor and second or lower tier subcontractors must submit a Schedule C-1 for second tier Subcontractors. The City encourages subcontractors to utilize the electronic fillable format Schedule C-1, which is available at the Department of Procurement Services website, <http://cityofchicago.org/forms>. Each Schedule C-1 must be executed by each MBE and WBE and accurately detail the work to be performed by the MBE or WBE and the agreed upon rates/prices. Each Schedule C must also include a separate sheet as an attachment on which the MBE or WBE fully describes its proposed scope of work, including a description of the commercially useful function being performed by the MBE or WBE in its Area of Specialty. If a facsimile copy of the Schedule C-1 has been submitted with the bid, an executed original Schedule C-1 must be submitted by the bidder for each MBE and WBE included on the Schedule D-1 within five business days after the date of the bid opening.

Failure to submit a completed Schedule C-1 in accordance with this section shall entitle the City to deem the bid/proposal non-responsive and therefore reject the bid/proposal.

**(2) Letters of Certification.**

A copy of each proposed MBE/WBE firm's current Letter of Certification from the City of Chicago or Cook County Illinois, must be submitted with the bid/proposal. All Letters of Certification issued by the City of Chicago and Cook County include a statement of the MBE/WBE firm's Area of Specialty. The MBE/WBE firm's scope of work, as detailed by their Schedule C-1, must conform to their stated Area of Specialty.

**(3) Schedule B: Affidavit of Joint Venture, and Joint Venture Agreements (if applicable).**

If the bidder's MBE/WBE proposal includes the participation of a MBE/WBE as joint venture on any tier (either as the bidder or as a subcontractor), the bidder must provide a copy of the joint

venture agreement and a Schedule B along with all other requirements listed in Section 6.3, "Joint Ventures," above. In order to demonstrate the MBE/WBE partner's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) contributions of capital and equipment, (2) work responsibilities or other performance to be undertaken by the MBE/WBE, and (3) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the contract. The joint venture agreement must also clearly define each partner's authority to contractually obligate the joint venture and each partner's authority to expend joint venture funds (e.g., check signing authority).

**(4) Schedule D-1: Required Schedules Regarding MBE/WBE Utilization**

Bidders must submit, together with the bid, a completed Schedule D-1 committing them to the utilization of each listed MBE/WBE firm. The City encourages bidders to utilize the electronic fillable format Schedule D-1, which is available at the Department of Procurement Services website, <http://cityofchicago.org/forms>. Except in cases where the bidder has submitted a request for a complete waiver of or variance from the MBE/WBE commitment in accordance with Section 6.5 "Regulations Governing Reductions to or Waiver of MBE/WBE Goals" herein, the bidder must commit to the expenditure of a specific dollar amount of participation by each MBE/WBE firm included on their Schedule D-1. The total dollar commitment to proposed MBEs must at least equal the MBE goal, and the total dollar commitment to proposed WBEs must at least equal the WBE goal. Bidders are responsible for calculating the dollar equivalent of the MBE and WBE goals as percentages of their total base bids or in the case of Term Agreements, depends upon requirements agreements and blanket agreements, as percentages of the total estimated usage. All commitments made by the bidder's Schedule D-1 must conform to those presented in the submitted Schedule C-1. If Schedule C-1 is submitted after the opening, the bidder may submit a revised Schedule D-1 (executed and notarized to conform with the Schedules C-1). Bidders shall not be permitted to add MBEs or WBEs after bid opening to meet the Contract Specific Goals, however, contractors are encouraged to add additional MBE/WBE vendors to their approved compliance plan during the performance of the contract when additional opportunities for participation are identified. Except in cases where substantial and documented justification is provided, bidders will not be allowed to reduce the dollar commitment made to any MBE or WBE in order to achieve conformity between the Schedules C-1 and D-1.

All commitments for joint venture agreements must be delineated in the Schedule B.

**(5) Application for Approval of Mentor Protégé Agreement**

Any applications for City approval of a Mentor Protégé agreement must be included with the bid. If the application is not approved, the bidder must show that it has made good faith efforts to meet the contract specific goals.

**6.7. Reporting Requirements During the Term of the Contract**

- a. The Contractor will, not later than thirty (30) calendar days from the award of a contract by the City, execute formal contracts or purchase orders with the MBEs and WBEs included in their approved MBE/WBE Utilization Plan. These written agreements will be made available to the Chief Procurement Officer upon request.
- b. The Contractor will be responsible for reporting payments to all subcontractors on a monthly basis in the form of an electronic report. Upon the first payment issued by the City of Chicago to the contractor for services performed, on the first day of each month and every month thereafter, email and or fax audit notifications will be sent out to the Contractor with instructions to report payments that have been made in the prior month to each subcontractor. The reporting of payments to all subcontractors must be entered into the Certification and

Compliance Monitoring System (C2), or whatever reporting system is currently in place, on or before the fifteenth (15th) day of each month.

- c. Once the prime Contractor has reported payments made to each subcontractor, including zero dollar amount payments, the subcontractor will receive an email and or fax notification requesting them to log into the system and confirm payments received. All monthly confirmations must be reported on or before the 20th day of each month. Contractor and subcontractor reporting to the C2 system must be completed by the 25th of each month or payments may be withheld.
- d. All subcontract agreements between the contractor and MBE/WBE firms or any first tier non-certified firm and lower tier MBE/WBE firms must contain language requiring the MBE/WBE to respond to email and/or fax notifications from the City of Chicago requiring them to report payments received for the prime or the non-certified firm.

Access to the Certification and Compliance Monitoring System (C2), which is a web based reporting system, can be found at: <https://chicago.mwdbe.com>

- e. The Chief Procurement Officer or any party designated by the Chief Procurement Officer, shall have access to the contractor's books and records, including without limitation payroll records, tax returns and records and books of account, to determine the contractor's compliance with its commitment to MBE and WBE participation and the status of any MBE or WBE performing any portion of the contract. This provision shall be in addition to, and not a substitute for, any other provision allowing inspection of the contractor's records by any officer or official of the City for any purpose.
- f. The Contractor shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs, retaining these records for a period of at least five years after project closeout. Full access to these records shall be granted to City, federal or state authorities or other authorized persons.

#### **6.8. Changes to Compliance Plan**

##### **6.8.1. Permissible Basis for Change Required**

No changes to the Compliance Plan or contractual MBE and WBE commitments or substitution of MBE or WBE subcontractors may be made without the prior written approval of the Contract Compliance Officer. Unauthorized changes or substitutions, including performing the work designated for a subcontractor with the contractor's own forces, shall be a violation of these Special Conditions and a breach of the contract with the City, and may cause termination of the executed Contract for breach, and/or subject the bidder or contractor to contract remedies or other sanctions. The facts supporting the request for changes must not have been known nor reasonably could have been known by the parties prior to entering into the subcontract. Bid shopping is prohibited. The bidder or contractor must negotiate with the subcontractor to resolve the problem. If requested by either party, the Department of Procurement Services shall facilitate such a meeting. Where there has been a mistake or disagreement about the scope of work, the MBE or WBE can be substituted only where an agreement cannot be reached for a reasonable price for the correct scope of work.

Substitutions of a MBE or WBE subcontractor shall be permitted only on the following basis:

- a) Unavailability after receipt of reasonable notice to proceed,
- b) Failure of performance;
- c) Financial incapacity;
- d) Refusal by the subcontractor to honor the bid or proposal price or scope;
- e) Mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed;

- f) Failure of the subcontractor to meet insurance, licensing or bonding requirements;
- g) The subcontractor's withdrawal of its bid or proposal; or
- h) De-certification of the subcontractor as a MBE or WBE (graduation from the MBE/WBE program does not constitute de-certification).
- i) Termination of a Mentor Protégé Agreement

#### **6.8.2. Procedure for Requesting Approval**

If it becomes necessary to substitute a MBE or WBE or otherwise change the Compliance Plan, the procedure will be as follows

- a) The bidder or contractor must notify the Contract Compliance Officer and Chief Procurement Officer in writing of the request to substitute a MBE or WBE or otherwise change the Compliance Plan. The request must state specific reasons for the substitution or change. A letter from the MBE or WBE to be substituted or affected by the change stating that it cannot perform on the contract or that it agrees with the change in its scope of work must be submitted with the request.
- b) The City will approve or deny a request for substitution or other change within 15 business days of receipt of the written request
- c) Where the bidder or contractor has established the basis for the substitution to the satisfaction of the Chief Procurement Officer, it must make Good Faith Efforts to meet the Contract Specific Goal by substituting a MBE or WBE subcontractor. Documentation of a replacement MBE or WBE, or of Good Faith Efforts, must meet the requirements in section 5. If the MBE or WBE Contract Specific Goal cannot be reached and Good Faith Efforts have been made, as determined by the Chief Procurement Officer, the bidder or contractor may substitute with a non-MBE or non-WBE
- d) If a bidder or contractor plans to hire a subcontractor for any scope of work that was not previously disclosed in the Compliance Plan, the bidder or contractor must obtain the approval of the Chief Procurement Officer to modify the Compliance Plan and must make Good Faith Efforts to ensure that MBEs or WBEs have a fair opportunity to bid on the new scope of work.
- e) A new subcontract must be executed and submitted to the Contract Compliance Officer within five business days of the bidder's or contractor's receipt of City approval for the substitution or other change

The City shall not be required to approve extra payment for escalated costs incurred by the contractor when a substitution of subcontractors becomes necessary to comply with MBE/WBE contract requirements.

#### **6.9. Non-Compliance and Damages**

Without limitation, the following shall constitute a material breach of this contract and entitle the City to declare a default, terminate the contract, and exercise those remedies provided for in the contract, at law or in equity. (1) failure to demonstrate Good Faith Efforts; and (2) disqualification as a MBE or WBE of the contractor or any joint venture partner, subcontractor or supplier if its status as an MBE or WBE was a factor in the award of the contract and such status was misrepresented by the contractor.

Payments due to the contractor may be withheld until corrective action is taken.

Pursuant to MCC 2-92-445 or 2-92-740, as applicable, remedies or sanctions may include a penalty in the amount of the discrepancy between the amount of the commitment in the Compliance Plan, as such amount may be amended through change orders or otherwise over the term of the contract, and the amount paid to MBEs or WBEs, and disqualification from contracting or subcontracting on additional City contracts for up to three years. The consequences provided herein shall be in addition to any other criminal or civil liability to which such entities may be subject

The contractor shall have the right to protest the final determination of non-compliance and the imposition of any penalty by the Chief Procurement Officer pursuant to MCC 2-92-445 or 2-92-740, within 15 business days of the final determination.

**6.10. Arbitration**

- a) In the event a contractor has not complied with the contractual MBE/WBE percentages in its Schedule D, underutilization of MBEs/WBEs shall entitle the affected MBE/WBE to recover from the contractor damages suffered by such entity as a result of being underutilized; provided, however, that this provision shall not apply to the extent such underutilization occurs pursuant to a waiver or substitution approved by the City. The Ordinance and contracts subject thereto provide that any disputes between the contractor and such affected MBEs/WBEs regarding damages shall be resolved by binding arbitration before an independent arbitrator other than the City, with reasonable expenses, including attorney's fees, being recoverable by a prevailing MBE/WBE in accordance with these regulations. This provision is intended for the benefit of any MBE/WBE affected by underutilization and grants such entity specific third party beneficiary rights. Any rights conferred by this regulation are non-waivable and take precedence over any agreement to the contrary, including but not limited to those contained in a subcontract, suborder, or communicated orally between a contractor and a MBE/WBE.
- b) An MBE/WBE desiring to arbitrate shall contact the contractor in writing to initiate the arbitral process. Except as otherwise agreed to in writing by the affected parties subject to the limitation contained in the last sentence of the previous paragraph, within ten (10) calendar days of the contractor receiving notification of the intent to arbitrate from the MBE/WBE the above-described disputes shall be arbitrated in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA), a not-for-profit agency, with an office at 225 North Michigan Avenue, Suite 2527, Chicago, Illinois 60601-7601 [Phone: (312) 616-6560; Fax: (312) 819-0404]. All such arbitrations shall be initiated by the MBE/WBE filing a demand for arbitration with the AAA; shall be conducted by the AAA; and held in Chicago, Illinois.
- c) All arbitration fees are to be paid pro rata by the parties, however, that the arbitrator is authorized to award reasonable expenses, including attorney and arbitrator fees, as damages to a prevailing MBE/WBE.
- d) The MBE/WBE must send the City a copy of the Demand for Arbitration within ten (10) calendar days after it is filed with the AAA. The MBE/WBE also must send the City a copy of the decision of the arbitrator within ten (10) calendar days of receiving such decision. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

**6.11. Equal Employment Opportunity**

Compliance with MBE and WBE requirements will not diminish or supplant equal employment opportunity and civil rights provisions as required by law.

**Attachment A – Assist Agencies**

Alliance of Business Leaders & Entrepreneurs  
(ABLE)  
150 N. Michigan Ave Suite 2800  
Chicago, IL 60601  
Phone: (312) 624-7733  
Fax: (312) 624-7734  
Web: [www.ablechicago.com](http://www.ablechicago.com)

Alliance of Minority and Female Contractors  
c/o Federation of Women Contractors  
5650 S. Archer Avenue  
Chicago, IL 60638  
Phone: (312) 360-1122  
Fax: (312) 360-0239

American Brotherhood of Contractors Business  
Development Center  
11509 S. Elizabeth  
Chicago, IL 60643  
Phone: (773) 928-2225  
Fax: (773) 928-2209  
Web: [www.american-brotherhood.org](http://www.american-brotherhood.org)

Asian American Institute  
4753 N. Broadway St. Suite 904  
Chicago, IL 60640  
Phone: (773) 271-0899  
Fax: (773) 271-1982  
Web: [www.aaichicago.org](http://www.aaichicago.org)

Association of Asian Construction Enterprises  
333 N. Ogden Avenue  
Chicago, IL 60607  
Phone: (847) 525-9693  
Email: [nakmancorp@aol.com](mailto:nakmancorp@aol.com)

Black Contractors United  
400 W. 76<sup>th</sup> Street, Suite 200  
Chicago, IL 60620  
Phone: (773) 483-4000  
Fax: (773) 483-4150  
Web: [www.blackcontractorsunited.com](http://www.blackcontractorsunited.com)

Federation of Women Contractors  
5650 S. Archer Avenue  
Chicago, IL 60638  
Phone: (312) 360-1122  
Fax: (312) 360-0239  
Web: [www.fwcchicago.com](http://www.fwcchicago.com)

Hispanic American Construction Industry  
Association (HACIA)  
901 West Jackson Boulevard, Suite 205  
Chicago, IL 60607  
Phone: (312) 666-5910  
Fax: (312) 666-5692  
Web: [www.haciaworks.org](http://www.haciaworks.org)

Illinois Black Chamber of Commerce  
331 Fulton Street, Suite 530  
Peoria, IL 61602  
Phone: (309) 740-4430  
Fax: (309) 672-1379  
[www.ilbcc.org](http://www.ilbcc.org)

Illinois Hispanic Chamber of Commerce  
855 W. Adams, Suite 100  
Chicago, IL 60607  
Phone: (312) 425-9500  
Fax: (312) 425-9510  
Web: [www.ihccbusiness.net](http://www.ihccbusiness.net)

Latin American Chamber of Commerce  
3512 West Fullerton Avenue  
Chicago, IL 60647  
Phone: (773) 252-5211  
Fax: (773) 252-7065  
Web:  
[www.latinamericanchamberofcommerce.com](http://www.latinamericanchamberofcommerce.com)

National Association of Women Business Owners  
Chicago Chapter  
230 E. Ohio, Suite 400  
Chicago, IL 60611  
Phone: (312) 224-2605  
Fax: (312) 644-8557  
Web: [www.nawbochicago.org](http://www.nawbochicago.org)

Chatham Business Association Small Business  
Development, Inc.  
8441 S. Cottage Grove Avenue  
Chicago, IL 60619  
Phone: (773)994-5006  
Fax: (773)994-9871  
Web: [www.cbaworks.org](http://www.cbaworks.org)

National Organization of Minority Engineers  
33 West Monroe, Suite 1540  
Chicago, IL 60603  
Phone: (312) 425-9560  
Fax: (312) 425-9564  
Web: [www.nomeonline.org](http://www.nomeonline.org)

Chicago Area Gay & Lesbian  
Chamber of Commerce  
3656 N. Halsted  
Chicago, IL 60613  
Phone: (773) 303-0167  
Fax: (773) 303-0168  
Web: [www.glichamber.org](http://www.glichamber.org)

Rainbow/PUSH Coalition  
International Trade Bureau  
930 E. 50<sup>th</sup> Street  
Chicago, IL 60615  
Phone: (773) 256-2781  
Fax: (773) 373-4104  
Web: [www.rainbowpush.org](http://www.rainbowpush.org)

Chicago Minority Supplier Development Council,  
Inc.  
105 W. Adams, Suite 2300  
Chicago, IL 60603-6233  
Phone: (312) 755-8880  
Fax: (312) 755-8890  
Web: [www.chicagomsdc.org](http://www.chicagomsdc.org)

South Shore Chamber, Incorporated  
Black United Funds Bldg.  
1750 E. 71<sup>st</sup> Street  
Chicago, IL 60649-2000  
Phone: (773) 955-9508

Chicago Urban League  
4510 S. Michigan Ave.  
Chicago, IL 60653  
Phone: (773) 285-5800  
Fax: (773) 285-7772  
Web: [www.cul-chicago.org](http://www.cul-chicago.org)

Suburban Minority Contractors Association  
1250 Grove Ave. Suite 200  
Barrington, IL 60010  
Phone: (847) 852-5010  
Fax: (847) 382-1787  
Web: [www.suburbanblackcontractors.org](http://www.suburbanblackcontractors.org)

Chicago Women in Trades (CWIT)  
4425 S. Western Blvd.  
Chicago, IL 60609-3032  
Phone: (773) 376-1450  
Fax: (312) 942-0802  
Web: [www.chicagowomenintrades.org](http://www.chicagowomenintrades.org)

United Neighborhood Organization (UNO)  
954 W. Washington Blvd, 3<sup>rd</sup> Floor  
Chicago, IL 60607  
Phone: (312) 432-6301  
Fax: (312) 432-0077  
Web: [www.uno-online.org](http://www.uno-online.org)

Coalition for United Community Labor Force  
1253 W. 63<sup>rd</sup> Street  
Chicago, IL 60636  
Phone: (312) 243-5149

Uptown Center Hull House  
4520 N. Beacon Street  
Chicago, IL 60640  
Phone: (773) 561-3500  
Fax: (773) 561-3507  
Web: [www.hullhouse.org](http://www.hullhouse.org)



Cosmopolitan Chamber of Commerce  
203 N. Wabash, Suite 518  
Chicago, IL 60601  
Phone: (312) 499-0611  
Fax: (312) 332-2688  
Web: [www.cosmochamber.org](http://www.cosmochamber.org)

Women Construction Owners & Executives  
(WCOE)  
Chicago Caucus  
308 Circle Avenue  
Forest Park, IL 60130  
Phone: (708) 366-1250  
Fax: (708) 366-5418  
Web: [www.wcoeusa.org](http://www.wcoeusa.org)

Englewood Black Chamber of Commerce  
P O. Box 21453  
Chicago, IL 60621

Women's Business Development Center  
8 South Michigan Ave., Suite 400  
Chicago, IL 60603  
Phone: (312) 853-3477  
Fax: (312) 853-0145  
Web: [www.wbdc.org](http://www.wbdc.org)

January 2012

**Attachment B - Sample Format for Requesting Assist Agency Comments on Bidder's Request  
for Reduction or Waiver of MBE/WBE Goals**

**On Bidder/Proposer's Letterhead – SEND TO THE ASSIST AGENCIES – DO NOT SEND TO THE CITY**

RETURN RECEIPT REQUESTED

(Date)

**Specification No.:** 82197E

**Project Description:** Bottled Drinking Water, Distilled Water & Water Cooler Rentals

**(Assist Agency Name and Address – SEND TO THE ASSIST AGENCIES – DO NOT SEND TO THE CITY)**

Dear \_\_\_\_\_

\_\_\_\_\_ (Bidder/Proposer) intends to submit a bid/proposal in response to the above referenced specification with the City of Chicago. Bids are due \_\_\_\_\_ advertised specification with the City of Chicago.

The following areas have been identified for subcontracting opportunities on both a direct and indirect basis:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Our efforts to identify potential subcontractors have not been successful in order to meet the Disadvantaged/Minority/Women Business Enterprise contract goal. Due to the inability to identify an appropriate DBE/MBE/WBE firm certified by the City of Chicago to participate as a subcontractor or joint venture partner, a request for the waiver of the contract goals will be submitted. If you are aware of such a firm, please contact

\_\_\_\_\_  
Name of Company Representative at Address/Phone

within (10) ten business days of receipt of this letter

Under the City of Chicago's MBE/WBE/DBE Ordinance, your agency is entitled to comment upon this waiver request to the City of Chicago. Written comments may be directed within ten (10) working days of your receipt of this letter to.

Monica Jimenez, Deputy Procurement Officer  
Department of Procurement Services  
City of Chicago  
121 North La Salle Street, Room 806  
Chicago, Illinois 60602

If you wish to discuss this matter, please contact the undersigned at \_\_\_\_\_

Sincerely,

### Schedule B: Affidavit of Joint Venture (MBE/WBE)

**Specification No.:** 82197E  
**Project Description:** Bottled Drinking Water, Distilled Water & Water Cooler Rentals

This form need not be submitted if all joint venturers are MBEs and/or WBEs. In such a case, however, a written joint venture agreement among the MBE and WBE venturers must be submitted. In all proposed joint ventures, each MBE and/or WBE venturer must submit a copy of their current Letter of Certification.

All information requested on this schedule must be answered in the spaces provided. Do not refer to your joint venture agreement except to expand on answers provided on this form. If additional space is required, additional sheets may be attached.

1 Name of joint venture: \_\_\_\_\_  
Address of joint venture: \_\_\_\_\_  
Phone number of joint venture: \_\_\_\_\_

2. Identify each non-MBE/WBE venturer(s): \_\_\_\_\_  
Name of Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Contact person for matters concerning MBE/WBE compliance.  
\_\_\_\_\_

3. Identify each MBE/WBE venturer(s): \_\_\_\_\_  
Name of Firm: \_\_\_\_\_  
Address \_\_\_\_\_  
Phone: \_\_\_\_\_  
Contact person for matters concerning MBE/WBE compliance  
\_\_\_\_\_

4 Describe the role(s) of the MBE and/or WBE venturer(s) in the joint venture:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Attach a copy of the joint venture agreement. In order to demonstrate the MBE and/or WBE venturer's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) the contributions of capital and equipment, (2) work items to be performed by the MBE/WBEs own forces; (3) work items to be performed under the supervision of the MBE/WBE venturer; and (4) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the project.
6. Ownership of the Joint Venture.
- a. What are the percentage(s) of MBE/WBE ownership of the joint venture? \_\_\_\_\_  
MBE/WBE ownership percentage(s) \_\_\_\_\_  
Non-MBE/WBE ownership percentage(s) \_\_\_\_\_
  - b. Specify MBE/WBE percentages for each of the following (provide narrative descriptions and other detail as applicable)
    - i. Profit and loss sharing: \_\_\_\_\_
    - ii. Capital contributions:
      - 1. Dollar amounts of initial contribution: \_\_\_\_\_
      - 2. Dollar amounts of anticipated on-going contributions: \_\_\_\_\_
  - c. Contributions of equipment (Specify types, quality and quantities of equipment to be provided by each venturer):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - d. Other applicable ownership interests, including ownership options or other agreements which restrict or limit ownership and/or control  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - e. Provide copies of all written agreements between venturers concerning this project
  - f. Identify each current City of Chicago contract (and each contract completed during the past two (2) years) by a joint venture of two or more firms participating in this joint venture:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Control of and Participation in the Joint Venture. Identify by name and firm those individuals who are, or will be, responsible for, and have the authority to engage in the following management functions and policy decisions (Indicate any limitations to their authority such as dollar limits and co-signatory requirements )
- a. Joint venture check signing

b. Authority to enter contracts on behalf of the joint venture

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c. Signing, co-signing and/or collateralizing loans

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d. Acquisition of lines of credit.

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e. Acquisition and indemnification of payment and performance bonds:

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f. Negotiating and signing labor agreements.

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g. Management of contract performance. (Identify by name and firm only)

- i. Supervision of field operations: \_\_\_\_\_
- ii. Major purchases \_\_\_\_\_
- iii. Estimating \_\_\_\_\_

iv. Engineering: \_\_\_\_\_

**8 Financial Controls of joint venture**

a. Which firm and/or individual will be responsible for keeping the books of account?

\_\_\_\_\_

b. Identify the managing partner, if any, and describe the means and measure of their compensation:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

c. What authority does each venturer have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties participating in the performance of this contract or the work of this project?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9 State the approximate number of operative personnel (by trade) needed to perform the joint ventures work under this contract. Indicate whether they will be employees of the non-MBE/WBE firm, the MBE/WBE firm, or the joint venture

Trade	Non-MBE/WBE Firm (Number)	MBE/WBE (Number)	Joint Venture

Note: If any personnel proposed for this project will be employees of the joint venture.

Are any proposed joint venture employees currently employed by either venturer?

Currently employed by non-MBE/WBE \_\_\_\_\_ (number) Employed by MBE/WBE \_\_\_\_\_

Identify by name and firm the individual who will be responsible for hiring joint venture employees.

\_\_\_\_\_

Which venturer will be responsible for the preparation of joint venture payrolls?

\_\_\_\_\_

Please state any material facts of additional information pertinent to the control and structure of this joint venture.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The undersigned affirms that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operations of our joint venture and the intended participation of each venturer in the undertaking. Further, the undersigned covenant and agree to provide to the City current, complete and accurate information regarding actual joint venture work and the payment therefore, and any proposed changes in any provision of the joint venture agreement, and to permit the audit and examination of the books, records and files of the joint venture, or those of each venturer relevant to the joint venture by authorized representatives of the City or the Federal funding agency.

Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under federal or state laws concerning false statements

Note If, after filing this Schedule B and before the completion on the joint ventures work on the project, there is any change in the information submitted, the joint venture must inform the City of Chicago, either directly or through the prime contractor if the joint venture is a subcontractor.

\_\_\_\_\_  
Name of MBE/WBE Partner Firm

\_\_\_\_\_  
Name of Non-MBE/WBE Partner Firm

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Name and Title of Affiant

\_\_\_\_\_  
Name and Title of Affiant

Date \_\_\_\_\_

Date \_\_\_\_\_

On this \_\_\_\_\_ day of, 20\_\_\_\_, the above-signed officers

Names of affiants. \_\_\_\_\_

personally appeared and, known to me be the persons described in the foregoing Affidavit, acknowledged that they executed the same in the capacity therein stated and for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal

Notary Public Signature \_\_\_\_\_

(Seal)

Commission Expires \_\_\_\_\_



**Schedule C-1: Letter of Intent From MBE/WBE To Perform As Subcontractor, Supplier and/or Consultant**



**SCHEDULE C-1**  
**MBE/WBE Letter of Intent to Perform as a**  
**Subcontractor, Supplier, or Consultant**

**FOR  
NON-CONSTRUCTION  
PROJECTS ONLY**

Project Name \_\_\_\_\_ Specification No \_\_\_\_\_

From \_\_\_\_\_  
(Name of MBE/WBE Firm)

To \_\_\_\_\_ and the City of Chicago  
(Name of Prime Contractor)

The MBE or WBE status of the undersigned is confirmed by the attached City of Chicago or Cook County, Illinois Certification Letter. 100% MBE or WBE participation is credited for the use of a MBE or WBE "manufacturer." 60% participation is credited for the use of a MBE or WBE "regular dealer."

The undersigned is prepared to perform the following services in connection with the above named project/contract. If more space is required to fully describe the MBE or WBE proposed scope of work and/or payment schedule, including a description of the commercially useful function being performed, attach additional sheets as necessary.

The above described performance is offered for the following price and described terms of payment:

**SUB-SUBCONTRACTING LEVELS**

A zero (0) must be shown in each blank if the MBE or WBE will not be subcontracting any of the work listed or attached to this schedule.

\_\_\_\_\_ % of the dollar value of the MBE or WBE subcontract that will be subcontracted to non MBE/WBE contractors

\_\_\_\_\_ % of the dollar value of the MBE or WBE subcontract that will be subcontracted to MBE or WBE contractors

**NOTICE:** If any of the MBE or WBE scope of work will be subcontracted, list the name of the vendor and attach a brief explanation, description and pay item number of the work that will be subcontracted. MBE/WBE credit will not be given for work subcontracted to Non-MBE/WBE contractors, except for as allowed in the Special Conditions Regarding Minority Business Enterprise Commitment and Women Business Enterprise Commitment.

The undersigned will enter into a formal written agreement for the above work with you as a Prime Contractor, conditioned upon your execution of a contract with the City of Chicago, within three (3) business days of your receipt of a signed contract from the City of Chicago.

The undersigned has entered into a formal written mentor protégé agreement as a subcontractor/protégé with you as a Prime Contractor/mentor. ( ) Yes ( ) No

**NOTICE: THIS SCHEDULE AND ATTACHMENTS REQUIRE ORIGINAL SIGNATURES**

\_\_\_\_\_  
(Signature of President/Owner/CEO or Authorized Agent of MBE/WBE) (Date)

\_\_\_\_\_  
(Name/Title Please Print)

\_\_\_\_\_  
(Email & Phone Number)

## Schedule D-1: Affidavit of Implementation of MBE/WBE Goals and Participation Plan



### SCHEDULE D-1 Compliance Plan Regarding MBE/WBE Utilization Affidavit of Prime Contractor

FOR  
NON-CONSTRUCTION  
PROJECTS ONLY

**MUST BE SUBMITTED WITH THE BID. FAILURE TO SUBMIT THE SCHEDULE D-1 WILL CAUSE THE  
BID TO BE REJECTED. DUPLICATE AS NEEDED.**

Project Name \_\_\_\_\_

Specification No \_\_\_\_\_

In connection with the above captioned contract, I HEREBY DECLARE AND AFFIRM that I am a duly authorized  
representative of \_\_\_\_\_  
(Name of Prime Consultant/Contractor)

and that I have personally reviewed the material and facts set forth herein describing our proposed plan to achieve the  
MBE/WBE goals of this contract

All MBE/WBE firms included in this plan have been certified as such by the City of Chicago and/or Cook County,  
Illinois (Letters of Certification Attached)

#### I. Direct Participation of MBE/WBE Firms:

**NOTE** The bidder/proposer shall, in determining the manner of MBE/WBE participation, first consider involvement with  
MBE/WBE firms as joint venture partners, subcontractors, and suppliers of goods and services directly related to the  
performance of this contract

A. If bidder/proposer is a joint venture and one or more joint venture partners are certified MBEs or WBEs, attach  
copies of Letters of Certification, Schedule B form and a copy of Joint Venture Agreement clearly describing the role  
of each MBE/WBE firm(s) and its ownership interest in the joint venture

B. Complete this section for each MBE/WBE Subcontractor/Supplier/Consultant participating on this contract

1. Name of MBE/WBE \_\_\_\_\_  
Address \_\_\_\_\_  
Contact Person \_\_\_\_\_  
Phone Number \_\_\_\_\_  
Dollar Value of Participation \$ \_\_\_\_\_  
Percentage of Participation % \_\_\_\_\_  
Mentor Protégé Agreement (attach executed copy) ( ) Yes ( ) No Add'l Percentage Claimed <sup>1</sup> \_\_\_\_\_ %  
Total Participation % \_\_\_\_\_
2. Name of MBE/WBE \_\_\_\_\_  
Address \_\_\_\_\_  
Contact Person \_\_\_\_\_

<sup>1</sup> The Prime Contractor may claim an additional 0.333 percent participation credit (up to a maximum of five (5) percent) for  
every one (1) percent of the value of the contract performed by the MBE/WBE protégé firm

**Schedule D-1: Prime Contractor Affidavit-MBE/WBE Compliance Plan**

Phone Number \_\_\_\_\_  
Dollar Value of Participation \$ \_\_\_\_\_  
Percentage of Participation % \_\_\_\_\_  
Mentor Protégé Agreement (attach executed copy) ( ) Yes ( ) No Add'l Percentage Claimed \_\_\_\_ %  
**Total Participation %** \_\_\_\_\_

**3** Name of MBE/WBE \_\_\_\_\_  
Address \_\_\_\_\_  
Contact Person \_\_\_\_\_  
Phone Number \_\_\_\_\_  
Dollar Value of Participation \$ \_\_\_\_\_  
Percentage of Participation % \_\_\_\_\_  
Mentor Protégé Agreement (attach executed copy) ( ) Yes ( ) No Add'l Percentage Claimed \_\_\_\_ %  
**Total Participation %** \_\_\_\_\_

**4.** Name of MBE/WBE \_\_\_\_\_  
Address \_\_\_\_\_  
Contact Person \_\_\_\_\_  
Phone Number \_\_\_\_\_  
Dollar Value of Participation \$ \_\_\_\_\_  
Percentage of Participation % \_\_\_\_\_  
Mentor Protégé Agreement (attach executed copy) ( ) Yes ( ) No Add'l Percentage Claimed \_\_\_\_ %  
**Total Participation %** \_\_\_\_\_

**5.** Attach Additional Sheets as Needed

**II. Indirect Participation of MBE/WBE Firms**

**NOTE:** This section need not be completed if the MBE/WBE goals have been met through the direct participation outlined in Section I. If the MBE/WBE goals have not been met through direct participation, Contractor will be expected to demonstrate that the proposed MBE/WBE direct participation represents the maximum achievable under the circumstances. Only after such a demonstration will indirect participation be considered.

MBE/WBE Subcontractors/Suppliers/Consultants proposed to perform work or supply goods or services where such performance does not directly relate to the performance of this contract

**1** Name of MBE/WBE \_\_\_\_\_  
Address \_\_\_\_\_  
Contact Person \_\_\_\_\_

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**Schedule D-1: Prime Contractor Affidavit-MBE/WBE Compliance Plan**

Phone Number \_\_\_\_\_

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy) ( ) Yes ( ) No Add'l Percentage Claimed \_\_\_\_%

**Total Participation %** \_\_\_\_\_

**2. Name of MBE/WBE** \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_

Phone Number \_\_\_\_\_

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy) ( ) Yes ( ) No Add'l Percentage Claimed \_\_\_\_%

**Total Participation %** \_\_\_\_\_

**3 Name of MBE/WBE** \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_

Phone Number \_\_\_\_\_

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy) ( ) Yes ( ) No Add'l Percentage Claimed \_\_\_\_%

**Total Participation %** \_\_\_\_\_

**4. Name of MBE/WBE** \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_

Phone Number \_\_\_\_\_

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy) ( ) Yes ( ) No Add'l Percentage Claimed \_\_\_\_%

**Total Participation %** \_\_\_\_\_

**5 Attach Additional Sheets as Needed**

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Page 3 of 5

**Schedule D-1: Prime Contractor Affidavit-MBE/WBE Compliance Plan**

**III. Summary of MBE/WBE Proposal**

**A. MBE Proposal (Direct & Indirect)**

**1 MBE Direct Participation**

MBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Direct MBE Participation</b>		

**2 MBE Indirect Participation**

MBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Indirect MBE Participation</b>		

**B. WBE Proposal (Direct & Indirect)**

**1 WBE Direct Participation**

WBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Direct WBE Participation</b>		

**2 WBE Indirect Participation**

WBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Indirect WBE Participation</b>		

**Schedule D-1. Prime Contractor Affidavit-MBE/WBE Compliance Plan**

The Prime Contractor designates the following person as its MBE/WBE Liaison Officer.

\_\_\_\_\_  
(Name- Please Print or Type)

\_\_\_\_\_  
(Phone)

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, THAT NO MATERIAL FACTS HAVE BEEN OMITTED, AND THAT I AM AUTHORIZED ON BEHALF OF THE PRIME CONTRACTOR TO MAKE THIS AFFIDAVIT.**

\_\_\_\_\_  
(Name of Prime Contractor - Print or Type)

State of \_\_\_\_\_

\_\_\_\_\_  
(Signature)

County of \_\_\_\_\_

\_\_\_\_\_  
(Name/Title of Affiant - Print or Type)

\_\_\_\_\_  
(Date)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above signed officer \_\_\_\_\_  
(Name of Affiant)

personally appeared and, known by me to be the person described in the foregoing Affidavit, acknowledged that (s)he executed the same in the capacity stated therein and for the purposes therein contained

IN WITNESS WHEREOF, I hereunto set my hand and seal

\_\_\_\_\_  
(Notary Public Signature)

SEAL

Commission Expires \_\_\_\_\_

## **ARTICLE 7. INSURANCE REQUIREMENTS**

The Contractor must provide and maintain for the life of this Contract and at Contractor's own expense, until Contract completion and during the time period following final completion if Contractor is required to return and perform any additional work, the insurance coverage and requirements specified below, insuring all operations related to the Contract

### **7.1. Insurance to be Provided**

#### **7.1.1. Workers Compensation and Employers Liability**

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Contract and Employers Liability coverage with limits of not less than \$500,000 each accident, illness or disease.

#### **7.1.2. Commercial General Liability (Primary and Umbrella)**

Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Subcontractors performing work for the Contractor must maintain limits of not less than \$1,000,000 with the same terms herein.

#### **7.1.3. Automobile Liability (Primary and Umbrella)**

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor must provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

Subcontractors performing work for the Contractor must maintain limits of not less than \$1,000,000 with the same terms herein.

#### **7.1.4. All Risk Property**

The Contractor must maintain All Risk Commercial Property Insurance covering loss or damage at full replacement cost to any City of Chicago equipment, materials, parts, or supplies while in the care, custody, and control of the Contractor as part of the Contract. The Contractor is responsible for any damage to City property at replacement cost that results from this Contract

### **7.2. Additional Requirements**

The Contractor must furnish the City of Chicago, Department of Procurement Services, City Hall, Room 806, 121 North LaSalle Street, Chicago, Illinois 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Contract, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. The Contractor must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached as an exhibit) or equivalent prior to Contract award. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. The failure of the City to obtain certificates or other insurance evidence from Contractor is not a waiver by the City of any requirements for the Contractor to obtain and maintain the specified coverages. The Contractor must advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance does not relieve Contractor of the obligation to provide insurance as specified herein. No fulfillment of the insurance conditions may constitute a violation of the Contract, and the City retains the right to stop work until proper evidence of insurance is provided, or the Contract may be terminated.

Contractor must furnish Certificates Insurance of Coverage of any or all insurance policies listing the City as an additional insured upon request by the Chief Procurement Officer. All Certificates Insurance of Coverage must be signed, dated and reference the City contract number

The insurance must provide for sixty (60) days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed

Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Contractor

The Contractor agrees that insurers waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives

The coverages and limits furnished by Contractor in no way limit the Contractor's liabilities and responsibilities specified within the Contract or by law

Any insurance or self-insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Contractor under the Contract.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Contract or any limitation placed on the indemnity in this Contract given as a matter of law.

If Contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company and each of its separate constituent entities as named insureds.

The Contractor must require all subcontractors to provide the insurance required herein, or Contractor may provide the coverages for subcontractors. All subcontractors are subject to the same insurance requirements of Contractor unless otherwise specified in this Contract

If Contractor or subcontractor desire additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost

Notwithstanding any provision in the Contract to the contrary, the City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.



**ARTICLE 8. ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT (EDS)**

**8.1. Online EDS Filing Required Prior To Bid Opening**

The Bidder must prepare an online EDS prior to the bid opening date

A BIDDER THAT DOES NOT PREPARE AN ELECTRONIC EDS PRIOR TO THE BID OPENING WILL BE FOUND NON-RESPONSIVE AND ITS BID WILL BE REJECTED.

**NOTE:**

- A. Filing an "EDS Information Update" does NOT satisfy the requirement to file an electronic EDS prior to bid opening.
- B. Filing an EDS in a hard copy or paper copy form does NOT satisfy the requirement to file an electronic EDS prior to bid opening.
- C. Filing an EDS for another mater (different bid, contract, etc.) does NOT satisfy the requirement to file an electronic EDS prior to bid opening.
- D. When completing the online EDS, please choose the Department of Procurement Services as the City agency or department that is requesting the EDS.

**8.2. Online EDS Web Link**

The web link for the Online EDS is <https://webapps.cityofchicago.org/EDSWeb>

**8.3. Online EDS Number**

Upon completion of the online EDS submission process, the Bidder will be provided an EDS number Bidders should provide this number here:

EDS Number: \_\_\_\_\_

**8.4. Online EDS Certification of Filing**

Upon completion of the online submission process, the Bidder will be able to print a hard copy Certificate of Filing. The Bidder should submit the signed Certificate of Filing with its bid

Please insert your Certification of Filing following this page

A Bidder that does not include a signed Certificate of Filing with its bid must provide it upon the request of the Chief Procurement Officer.

CERTIFICATE OF FILING FOR  
CITY OF CHICAGO ECONOMIC DISCLOSURE STATEMENT

EDS Number: 55209

Certificate Printed on: 04/23/2014

Date of This Filing: 04/22/2014 04:09 PM

Original Filing Date 04/22/2014 04:09 PM

Disclosing Party: Nestle Waters North America Title: Sales Administrator

Filed by: Kathy Nieto

Matter: Delivery of bottled water and filtrations

Applicant: Nestle Waters North America

Specification #: 82197E

Contract #: RFQ4527

The Economic Disclosure Statement referenced above has been electronically filed with the City. Please provide a copy of this Certificate of Filing to your city contact with other required documents pertaining to the Matter. For additional guidance as to when to provide this Certificate and other required documents, please follow instructions provided to you about the Matter or consult with your City contact.

A copy of the EDS may be viewed and printed by visiting <https://webapps1.cityofchicago.org/EDSWeb> and entering the EDS number into the EDS Search. Prior to contract award, the filing is accessible online only to the disclosing party and the City, but is still subject to the Illinois Freedom of Information Act. The filing is visible online to the public after contract award.

### 8.5. Preparation Checklist for Registration

To expedite and ease your registration process, we recommend that you collect the following information prior to registering for an Online EDS user account.

- \_\_\_\_\_ 1 Invitation number, if you were provided an invitation number
- \_\_\_\_\_ 2. EDS document from previous years, if available.
- \_\_\_\_\_ 3. Email address to correspond with the Online EDS system
- \_\_\_\_\_ 4. Company Information
  - \_\_\_\_\_ a. Legal Name
  - \_\_\_\_\_ b. FEIN/SSN
  - \_\_\_\_\_ c. City of Chicago Vendor Number, if available.
  - \_\_\_\_\_ d Address and phone number information that you would like to appear on your EDS documents
  - \_\_\_\_\_ e EDS Captain Check for an EDS Captain in your company - this maybe the person that usually submits EDS for your company or the first person that registers for your company.

### 8.6. Preparation Checklist for EDS Submission

To expedite and ease your EDS submission, we recommend that you collect the following information prior to updating your EDS information online:

Items #1 through #7 are needed for both EDS information updates and contract related EDS documents.

- \_\_\_\_\_ 1. Invitation number, if you were provided with an invitation number.
- \_\_\_\_\_ 2. Site address that is specific to this EDS
- \_\_\_\_\_ 3. Contact that is responsible for this EDS.
- \_\_\_\_\_ 4 EDS document from previous years, if available.
- \_\_\_\_\_ 5. Ownership structure and if applicable, owners' company information:
  - \_\_\_\_\_ a % of ownership
  - \_\_\_\_\_ b Legal Name
  - \_\_\_\_\_ c FEIN/SSN
  - \_\_\_\_\_ d City of Chicago Vendor Number, if available.
  - \_\_\_\_\_ e Address
- \_\_\_\_\_ 6 List of directors, officers, titleholders, etc (if applicable).
- \_\_\_\_\_ 7 For partnerships/LLC/LLP/Joint ventures, etc , List of controlling parties (if applicable)

Items #8 and #9 are needed ONLY for contract related EDS documents:

- 1 Contract related information (if applicable)
  - \_\_\_\_\_ a City of Chicago contract package
  - \_\_\_\_\_ b Cover page of City of Chicago bid/solicitation package
  - \_\_\_\_\_ c If EDS is related to a mod, then cover page of your current contract with the City
2. List of subcontractors and retained parties
  - \_\_\_\_\_ a Name

\_\_\_\_\_ b Address  
\_\_\_\_\_ c Fees – Estimated or paid

### 8.7. EDS Frequently Asked Questions

Q: Where do I file?

A The web link for the Online EDS is <https://webapps.cityofchicago.org/EDSWeb>

Q: How do I get help?

A If there is a question mark on a page or next to a field, click on the question mark for help filling out the page or field. You may also consult the User Manual and the Training Videos available on the left menu.

Q: Why do I have to submit an EDS?

A The Economic Disclosure Statement (EDS) is required of applicants making an application to the City for action requiring City Council, City department or other City agency approval. For example, all bidders seeking a City contract are required to submit an EDS. Through the EDS, applicants make disclosures required by State law and City ordinances and certify compliance with various laws and ordinances. An EDS is also required of certain parties related to the applicant, such as owners and controlling parties.

Q: Who is the Applicant?

A "Applicant" means any entity or person making an application to the City for action requiring City Council or other City agency approval. The applicant does not include owners and parent companies.

Q: Who is the Disclosing Party?

A: "Disclosing Party" means any entity or person submitting an EDS. This includes owners and parent companies.

Q: What is an entity or legal entity?

A: "Entity" or "Legal Entity" means a legal entity (for example, a corporation, partnership, joint venture, limited liability company or trust).

Q: What is a person for purposes of the EDS?

A "Person" means a human being

Q: Who must submit an EDS?

A An EDS must be submitted in any of the following three circumstances

Applicants An Applicant must always file this EDS. If the Applicant is a legal entity, state the full name of that legal entity. If the Applicant is a person acting on his/her own behalf, state his/her name.

Entities holding an interest Whenever a legal entity has a beneficial interest (E. G. direct or indirect ownership) of more than 7.5% in the Applicant, each such legal entity must file an EDS on its own behalf.

Controlling entities Whenever a Disclosing Party is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture that has a general partner, managing member, manager or other

entity that can control the day-to-day management of the Disclosing Party, that entity must also file an EDS on its own behalf. Each entity with a beneficial interest of more than 7.5% in the controlling entity must also file an EDS on its own behalf.

Q What information is needed to submit an EDS?

A: The information contained in the Preparation Checklist for EDS submission

Q. I don't have a user ID & password Can I still submit an Online EDS?

A. No. You must register and create a user ID and password before submitting an Online EDS.

Q: What information is needed to request a user ID & password for Online EDS?

A: The information contained in the Preparation Checklist for Registration is needed to request a login for the Online EDS.

Q: I already have a username and password from another City web site (City Web Portal, Department of Construction and Permits, Department of Consumer Services, etc.) Can I log in the Online EDS with that account?

A. Usually not. The Online EDS uses a user ID and password system that is shared by the Public Vehicle Advertising and Water Payment web sites. You may use a username and password from those sites by answering "Yes" to "Is this an existing City of Chicago user ID?" when registering. Other usernames and passwords will not be automatically recognized. However, you may choose to create an identical username for the Online EDS if it is not already taken.

Q: I don't have an email address. How do I submit an Online EDS?

A: You cannot get an account to submit an online EDS without an email address. If you need an e-mail address, we suggest that you use a free internet email provider such as [www.hotmail.com](http://www.hotmail.com), [www.yahoo.com](http://www.yahoo.com) or [mail.google.com](http://mail.google.com) to open an account. The City does not endorse any particular free internet email provider. Public computers are available at all Chicago Public Library branches.

Q I forgot my user ID Can I register again?

A No. If you are the EDS Captain of your organization, please contact the Department of Procurement Services at 312-744-4900. If you are an EDS team member, contact your EDS Captain, who can look up your user ID.

Q Who is the EDS Captain?

A The EDS Captain is a person who performs certain administrative functions for an organization which files an EDS. Each organization registered with the Online EDS has at least one EDS Captain. There may be co-captains, who are all equal. EDS Captains approve new users, change contact information for an organization and de-active accounts of employees who have left the organization. Please see the User Manual for more information.

Q Why do we need EDS Captains?

A The Online EDS is designed to be a self-service web application which allows those doing or seeking to do business with the City to perform as many routine functions as possible without City intervention. Because many organizations have multiple staff filing an EDS, the EDS Captain role allows those organizations to self-manage the contact information and users.

Q: Who is the EDS team?

A: The EDS team for an organization is everyone who is registered to file an EDS on behalf of the organization

Q: I forgot my password. What should I do?

A: To retrieve a temporary password, click the "Forgot your password?" link on the login page. Enter your user ID that you provided when you registered your account. The system will automatically generate a temporary password and send it to you. When you log-in with your temporary password, you will be asked to create a new password

Q: How do I complete an Online EDS?

A: Click on "Create New" after logging in. The Online EDS system will walk you through the EDS questions. Please see the User Manual for details.

Q: How do I fill out a Disclosure of Retained Parties?

A: There is no longer a separate Disclosure of Retained Parties filing. After logging in, click on "Create New". Answer (click) "Contract" to "Is this EDS for a contract or an EDS information update?" Click "Fill out EDS" and click on the "Retained Parties" tab. When finished, click on "Ready to Submit".

Q: How do I attach documents?

A: Attachments are discouraged. If at all possible, please provide a concise explanation in the space provided in the online form. Attachments with pages of officers are not acceptable. Names of officers must be typed into the system. If you must provide an attachment for another reason, please send it to your City of Chicago contact (contract administrator or negotiator for procurements) and they will attach it for you. Documents can be sent in PDF (preferred), Word or paper format.

Q: Who can complete an Economic Disclosure Statement online?

A: Any authorized representative of your business with a user ID and password can complete your EDS online. One person, such as an assistant, can fill in the information and save it and another person can review and electronically sign the Online EDS.

Q: What are the benefits of filing my Economic Disclosure statement electronically?

A: Filing electronically reduces the chance of filing an incomplete EDS and speeds up the processing of contract awards. A certificate of filing can be printed at the completion of the process and inserted into your bid package. The biggest benefit for those who frequently do business with the City is that after the first EDS, each EDS is much easier to fill out because non-contract specific information is pre-filled from the last submitted EDS.

Q: Will my information be secure?

A: Yes. When making your internet connection to our Web Server, you will connect through a Secure Socket Layer (SSL for short) to the "Online EDS" login page. All information you type will be protected using strong encryption. Within the login page, you will provide us with a user ID, password and secret question for user authentication, only you will have knowledge of this unique identification information.

Q: I am filing electronically. How do I sign my EDS?

A Once you have completed the EDS, you will be prompted to enter your password and answer to your secret question. Together, these will serve as your electronic signature. Although you will also print and physically sign an EDS certification of filing as a notice that your EDS was filed, your EDS is complete as a legal document with only the electronic filing.

Q: My address has changed. How can I update my information?

A: You must be an EDS Captain for your organization to update this. Log-in and click on "Vendor Admin, Site Administration". Select the appropriate site and click edit.

Q: I have more questions. How can I contact the Department of Procurement Services?

A: Please contact the contract administrator or negotiator assigned to your solicitation or contract. You may call DPS at 312-744-4900 between 8:30 AM and 5:00 PM Central Time.

Q: Can I save a partially complete EDS?

A: Yes. Click "Save". To avoid data loss, we recommend you save your work periodically while filling out your EDS.

Q: Do I have to re-type my information each time I submit an EDS?

A: No. The system will remember non-contract specific information from your last submitted EDS for one year. This information will be filled-in for you in your new EDS. You will have an opportunity to correct it if it has changed since your last filing. When you submit your new EDS, the information is saved and the one-year clock begins running anew.

Q: What are the system requirements to use the Online EDS?

A: The following are minimum requirements to use the Online EDS:

- A PDF viewer such as Adobe Reader is installed and your web browser is configured to display PDFs automatically. You may download and install Adobe Reader free at [www.adobe.com/products/reader/](http://www.adobe.com/products/reader/)
- Your web browser is set to permit running of JavaScript
- Your web browser allows cookies to be set for this site. Please note that while we use cookies in the Online EDS, we do not use them to track personally identifiable information, so your privacy is maintained.
- Your monitor resolution is set to a minimum of 1024 x 768.
- While not required to submit an EDS, if you wish to view the training videos, you must have Adobe Flash Plugin version 9 or higher, speakers and sound. Please note that very old computers may not be able to run Adobe Flash and will not be able to play the training videos. In that case, we encourage you to seek help using the Online EDS Manuals. You may download and install Adobe Flash Plugin free at <http://get.adobe.com/flashplayer>

The Online EDS has been tested on Internet Explorer 6.0, 7.0, Firefox 2.0 and 3.0 on Windows XP and Mac OS X. Although it should work on other browsers and operating systems, the City of Chicago cannot guarantee compatibility.

**ARTICLE 9. PROPOSAL PAGES**

Proposal page(s) follow.

Remainder of page intentionally blank.



City of Chicago  
Catalog RFQ - No Group Lines

PU0851

RFQ Header Information

Please Respond By 3/19/2014

RFQ Number 4527

Ship To Location 081-4014 CH 701

For More Information Please Contact STACY STEWART

312-744-2681

BOTTLED DRINKING WATER, DISTILLED  
WATER &

RFQ Description

Special Instructions

Your Quote is Effective as of 3/19/2014

Bid/Proposal pricing for all commodity and/or service line items must be based on the standard unit of measure indicated below. Pricing on alternate units of measure may not be accepted. Unit costs must be limited to three decimal places. Each quote must be signed and unit price, extended price and total price must be typed or written in ink.

Quotes on "or equal" items must be identified as "alternate" to specified item on the comment line. If quoting an alternate, indicate manufacturer name, model/part/catalog number and attach descriptive literature. Alternate items may not be accepted. Any exceptions to items specified or other terms must be clearly indicated on the bid.

RFQ Header Details

Contract Type COMMODITIES

Target Market NO

Advertise Date 3/28/2014

WEB BID Edit Rules ALL

Specification 82197E

Procurement Type Bid

Bid Deposit Required NO

Compliance Officer

Compliance Type Description

Percentage Type Desc		Required %
Minority Owned Business Enterprise	Target Percentage Rate	0 00 %
Women Owned Business Enterprise	Target Percentage Rate	0 00 %

# City of Chicago

## Catalog RFQ - No Group Lines

PU0851

Line No	Line Type	Item	Category	Commodity Desc	UOM	Estimated Usage	Price	Discount or Markup %	Extended Price	Catalog # / ID, Date and Mfr	Comments
1	Goods	3909135410	39091	WATER, BOTTLED - 16.9 OZ BOTTLES 24 BOTTLES/CASE	Case	30000	\$4.41	(N/A)	\$1,323.00	(N/A)	
2	Goods	3909135400	39091	WATER, BOTTLED - DRINKING WATER IN 5 GAL BOTTLES	Each	50000	\$3.99	(N/A)	\$1,995.00	(N/A)	
3	Goods	3909135100	39091	WATER, BOTTLED - DISTILLED WATER IN 1 GAL BOTTLES	Each	400	\$5.99	(N/A)	\$2,396.00	(N/A)	
4	Goods	3909135160	39091	WATER, BOTTLED - DISTILLED WATER IN 5 GAL BOTTLES	Each	1500	\$6.99	(N/A)	\$10,485.00	(N/A)	
5	Goods	9852887247	98528	RENTAL OF WATER COOLERS - ELECTRIC HOT AND COLD COOLER TWO REFRIGERATOR MONTHLY RENTAL CHARGE	Each	7500	\$2.99	(N/A)	\$22,425.00	(N/A)	

Total Price \$ 384,566.00

ACCEPTED

ARTICLE 10. BID DATA PATES & AFFIDAVITS

10.1. Bidder Contact Information

Person to contact regarding bid:

Name: Thomas Flash Phone: 773.892.6184  
Address: 4400 S. Kelmar Ave. Chicago, IL 60632

Email address: thomas.flash@waters.nestle.com

Indicate if you are:

Manufacturer: YES ☒ NO ☐

Exclusive dealer/distributor/reseller\*: YES ☐ NO ☐

Authorized dealer/distributor/reseller\*: YES ☐ NO ☐

\* If an exclusive or authorized distributor of the proposed manufacturer, bidder must attach to the bid current written documentation from the proposed manufacturer verifying bidder's status

Manufacturer's name: Nestle Waters, North America  
Address: 4400 S. Kelmar Ave Chicago, IL

Phone: ( )

Location of facility where inventory maintained. Chicago

Bid Line: \_\_\_\_\_

Proposed Manufacturer and Model Number. \_\_\_\_\_

Exceptions (explain): \_\_\_\_\_

### 10.2. City-Based Business Affidavit

The City-Based Business bid preference of 2%, as described in Section 2-92-412 of the Municipal Code of Chicago ("MCC") is applicable to competitively bid Contracts funded in whole by City funds. Bidder must complete this form if it desires to be considered for this preference. Bidders that do not complete this page will not be regarded as City-Based Businesses. If bidder's operations are at multiple locations in the City of Chicago, use additional sheets if necessary. If this preference is allocated, the Local Goods Incentive described in MCC 2-92-410 will not be allocated to the same bid.

1. Is bidder a "City-Based Business" as defined in the Requirements for Bidding and Instructions for Bidders portion of this bid solicitation and in MCC 2-92-412?  
( ) Yes ☒ No
2. Does the bidder report to the Internal Revenue Service that the place of employment for the majority (more than 50%) of its regular, full-time workforce is a facility within the City of Chicago?  
( ) Yes ☒ No
3. Does the bidder conduct meaningful day-to-day business operations at a facility within the City of Chicago?  
☒ Yes ( ) No
4. Street address of business location within the City of Chicago (P.O. address not accepted):  
4400 S. Kalmar Ave Chicago, IL
5. Describe the business activities are carried out at the location listed above: Storage, Trucks and delivery of water
6. How many full-time regular employees are currently employed at the location listed above? 200
7. Total number of full-time regular employees employed at all locations worldwide? 370,00
8. List City of Chicago business license(s) held. If none are required, indicate "none required": \_\_\_\_\_

In order for the Chicago Business Preference to be allocated to Bidder's bid if applicable, the undersigned affirms that the above statements are correct.

Name of Bidder Thomas Flash  
(Print or Type)

Signature of Authorized Officer [Signature]  
(Signature)

Title of Signatory: Key Account Developer Manager  
(Print or Type)

State of ILLINOIS County of COOK

On this 19 day of MARCH 2014 THOMAS FLASH personally appeared as an Authorized Officer of CHASE (Business Name) and, known to me be the person described in the this

Affidavit, acknowledged that he/she executed the same in the capacity herein stated and for the purpose herein contained

[Signature]  
Notary Public Signature

Commission Expires MAY 9, 2017 (seal)



### 10.3. Bidder's Commitment to Provide Locally Manufactured Goods

The Locally Manufactured Goods Incentive as described in Section 2-92-410 of the Municipal Code of Chicago ("MCC") is applicable to competitively bid Contracts funded in whole by City funds. Bidder must submit this form with the bid, as well as a *Manufacturer's Affidavit of Local Manufacturing* for each local manufacturer from which goods will be sourced, if it desires to be considered for this bid incentive. Bidders that do not submit this page with their bid will not be regarded as providing locally manufactured goods. Attach additional sheets if necessary. If this incentive is allocated, the City Based Business Preference described in described in MCC 2-92-412 will not be allocated to the same bid.

Unless otherwise provided in the applicable bid solicitation, in order for an item to be considered Locally Manufactured Goods, more than 50% of the value of the item must be derived from manufacturing activities that occur within a city-based manufacturer's facility located within the City of Chicago.

*Note. The CPO may request additional information or documentation before determining to apply the preference.*

1. Contract title \_\_\_\_\_ Specification # \_\_\_\_\_
2. The value of Locally Manufactured Goods (as defined in MCC 2-92-410 and the applicable bid solicitation) that Bidder commits to provide will be what percentage of the total dollar value of the contract?
- ( ) 25% to 49%-- 1% incentive ( ) 50% to 74%-- 1.5% incentive ( ) 75% or greater-- 2% incentive

3. Identify the bid lines under which Locally Manufactured Goods will be provided and their value, based on the bid specification's estimated quantities (attach additional sheets if necessary):

Bid Line #	Locally Manufactured Item(s) to be provided	Manufacturer*	Value of Item(s)
			\$
			\$
			\$
TOTAL:			\$

\*Bidder must provide *Manufacturer's Affidavit of Local Manufacturing* for each manufacturer listed.

Bidder understands that if it fails to supply the committed percentage of Locally Manufactured Goods, under MCC 2-92-410 it may be fined in an amount equal to three times the amount of the difference between the bid incentive allocated and the bid incentive that would have been allocated to that contractor for the amount of locally manufactured goods actually supplied.

In order for the Locally Manufactured Goods Incentive to be allocated to Bidder's bid if applicable, the undersigned affirms that the above statements are correct.

Name of Bidder \_\_\_\_\_  
(Print or Type)

Signature of Authorized Officer \_\_\_\_\_  
(Signature)

Title of Signatory \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_ County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ personally appeared as an Authorized Officer of \_\_\_\_\_ (Business Name) and, known to me be the person described in the this Affidavit, acknowledged that he/she executed the same in the capacity herein stated and for the purpose herein contained

(seal)

Notary Public Signature \_\_\_\_\_ Commission Expires \_\_\_\_\_

*Affidavit of Local Manufacturing*

#### 10.4. Manufacturer's Affidavit of Local Manufacturing

The Locally Manufactured Goods Incentive as described in Section 2-92-410 of the Municipal Code of Chicago ("MCC") is applicable to competitively bid Contracts funded in whole by City funds. Bidder must submit this form with the bid, in order to be considered for this bid incentive. Bidders that do not submit this page with their bid will not be regarded as providing locally manufactured goods. If goods will be manufactured by multiple manufacturers or at multiple facilities in the City of Chicago, submit an affidavit for each. Attach additional sheets if necessary. If this incentive is allocated, the City Based Business Preference described in described in MCC 2-92-412 will not be allocated to the same bid.

*Note: The CPO may request additional information or documentation before determining to apply the preference.*

1. Contract Title: \_\_\_\_\_ Specification #: \_\_\_\_\_  
Bidder/Contractor Name: \_\_\_\_\_
2. Is manufacturer a "City-Based Manufacturer" as defined in the Requirements for Bidding and Instructions for Bidders portion of this bid solicitation and in MCC 2-92-410? ( ) Yes ( ) No
3. Street address of manufacturing facility location within the City of Chicago (P.O. address not accepted): \_\_\_\_\_
4. Describe the manufacturing activities carried out at the location listed above: \_\_\_\_\_
5. List the goods to be manufactured at this facility manufacturer is prepared to provide to Bidder/Contractor, describe the production steps performed at the facility in the manufacture of each item, and the percentage of the item's value derived from manufacturing activities at this facility, and attach a catalog page, cut sheet, or product specification for each item:  
Item: \_\_\_\_\_ Production steps: \_\_\_\_\_ % of value  
Item: \_\_\_\_\_ Production steps: \_\_\_\_\_ % of value
6. List City of Chicago business license(s) held If none are required, indicate "none required": \_\_\_\_\_

The undersigned commits to enter into a formal written agreement for supply with Bidder/Contractor, conditioned upon its execution of a contract with the City of Chicago to which the Locally Manufactured Goods Incentive is applied, within three (3) business days of its receipt of a signed contract from the City of Chicago

The undersigned affirms that the above statements are correct

Name of Manufacturer \_\_\_\_\_  
(Print or Type)

Signature of Manufacturer Authorized Officer \_\_\_\_\_  
(Signature)

Title of Signatory \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_ County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ personally appeared as an Authorized Officer of \_\_\_\_\_ (Business Name) and, known to me be the person described in the this Affidavit, acknowledged that he/she executed the same in the capacity herein stated and for the purpose herein contained

(seal)

Notary Public Signature

Commission Expires \_\_\_\_\_

*Affidavit of Local Manufacturing*

**10.5. Affidavit of Eligible Business For Bid Incentive For Alternately Powered Vehicles**

If this is a competitively bid Contract funded in whole by City funds, an Eligible Business preference for alternately powered vehicles may be applicable. Bidder must complete this form if it desires to be considered for this preference. Bidders who do not complete and submit this form with their bid will be deemed to be non-Eligible Businesses

1. Is bidder a business located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois (the "Six County Region")? ( ) Yes ( ) No

2. Street address of principal place of business: \_\_\_\_\_

3. How many total vehicles, as defined in the Terms and Conditions, "Bid Incentive for Alternately Powered Vehicles," are currently owned, operated, leased or otherwise controlled by bidder?

Line 3(a): \_\_\_\_\_

4. How many of bidder's vehicles are located and used within the Six County Region?

Line 4(a): number of vehicles \_\_\_\_\_

Line 4(b): percentage of fleet (line 4(a) divided by line 3(a)) \_\_\_\_\_ %

5. How many of bidder's vehicles located and used within the Six County Region are alternately powered vehicles, as defined in the Terms and Conditions, Bid Incentive for Alternately Powered Vehicles?

Line 5(a): number of vehicles \_\_\_\_\_

Line 5(b): percentage of Six County fleet (line 5(a) divided by line 4(a)) \_\_\_\_\_ %

Bidder understands that it may be required to produce records to the chief procurement officer to verify the information provided herein

Under penalty of perjury the person signing below: (1) warrants that he/she is authorized to execute this Affidavit on behalf of bidder, and (2) warrants that all certifications and statements contained in this Affidavit are true, accurate, and complete as of the date hereof.

Name of Bidder. \_\_\_\_\_  
(Print or Type)

Signature of Authorized Officer \_\_\_\_\_  
(Signature)

Title of Signatory \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_ County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ personally appeared as an Authorized Officer of \_\_\_\_\_ (Business Name) and, known to me be the person described in the this Affidavit, acknowledged that he/she executed the same in the capacity herein stated and for the purpose herein contained

(seal)

Notary Public Signature \_\_\_\_\_

Commission Expires \_\_\_\_\_

**ARTICLE 11. EXECUTION AND ACCEPTANCE PAGES**

Bid execution and acceptance pages follow.

Remainder of page intentionally blank.



### 11.1. Bid Execution By a Corporation

The undersigned, hereby acknowledges having received Specification Number 82197E containing a full set of Contract Documents, including, but not limited to, 1) Requirements for Bidding and Instructions to Bidders, 2) Standard Terms and Conditions - General Conditions, 3) Special Conditions for Supply Contracts, 4) Contract Plans or Drawings (if applicable) 5) Detailed Specifications, 6) Proposal Pages, 7) Certifications, and 8) Addenda Nos. (none unless indicated here) \_\_\_\_\_, and affirms that the corporation shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal or bid, except only to the extent that the corporation has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line; (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line, and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other Bidder (proposer) or prospective Bidder (proposer) or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraint of freedom of competition among Bidders (proposers) and has not disclosed to any person, firm or corporation the terms of this bid (proposal) or the price named herein

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected

NAME OF CORPORATION:

Nestle Waters North America Inc.  
(Print or Type)

SIGNATURE OF PRESIDENT\*  
(Or Authorized Officer)

[Signature]  
(Signature)

TITLE OF SIGNATORY:

VP Sales  
(Print or Type)

BUSINESS ADDRESS

900 Long Ridge Rd Bldg 2 Stamford, CT 06902  
(Print or Type)

\*Note: In the event that this bid (proposal) is signed by other than the President, attach hereto a certified copy of that section of Corporate By-Laws or other authorization, such as a resolution by the Board of Directors, which permits the person to sign the offer for the Corporation

ATTEST

[Signature]  
(Corporate Secretary Signature) (Affix Corporate Seal)  
Assistant

State of CONNECTICUT County of FAIRFIELD

This instrument was acknowledged before me on this 6 day of MARCH 2014 by PAT ANDERSON Vice President (or other authorized officer) and JUDITH STECKLER Assistant Secretary of Nestle Waters North America Inc. (Corporation Name)

(Seal)

Laura Petrillo  
Notary Public Signature

Commission Expires

Laura Petrillo  
Notary Public-Connecticut  
My Commission Expires  
May 31, 2017

**Nestlé Waters North America Inc.**  
**900 Long Ridge Road, Building 2**  
**Stamford, Connecticut 06902**

---

I, Judith J. Steckler, Assistant Secretary of Nestlé Waters North America Inc. (the "Corporation") hereby certify that, effective the 1<sup>st</sup> day of October, 2013, the Board of Directors of the Corporation, by written consent in lieu of meeting, adopted the following resolution:

"RESOLVED, without limitation of the authority given by the By-Laws of the Corporation or any other resolution of this Board of Directors, this resolution hereby confirms and reconfirms the authority of any of the following individuals named below of the Corporation to sign any contract, agreement, document, certification, application, bid form, or other document binding on the Corporation related to the home and office division's bid materials ("bid documentary material") without the further approval or authorization by the Board of Directors or otherwise; this authorization to remain effective until revoked by the Board and further provided that any party may rely on this resolution or a certified copy thereof as to the foregoing authority of the below named individuals to the same extent as if such the party had in hand a certified copy of a then current resolution specifically authorizing the below named individuals to authorize or execute such documentary material on behalf of the Corporation, it being further voted that all documentary material previously executed by such officer is hereby approved, reapproved and confirmed."

Pat Anderson, Vice President."

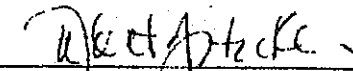
This resolution remains in full force and effect.

Pursuant to this resolution, on March 6 2014, Pat Anderson, Vice President for the Corporation, executed, on behalf of the Corporation, certain bid documents for Specification Number 82197E (Bottled Drinking Water, Distilled Water & Water Cooler Rentals) for submission to the City of Chicago Department of Streets and Sanitation.

In witness whereof, I hereunto set my hand and the seal of the Corporation this 6<sup>th</sup> day of May, 2014.

NESTLÉ WATERS NORTH AMERICA INC.

By



Judith J. Steckler  
Assistant Secretary  
Nestlé Waters North America Inc.

### 11.2. Bid Execution By A Joint Venture

The undersigned, hereby acknowledges having received Specification Number 82197E containing a full set of Contract Documents, including, but not limited to, 1) Requirements for Bidding and Instructions to Bidders, 2) Standard Terms and Conditions - General Conditions, 3) Special Conditions for Supply Contracts, 4) Contract Plans or Drawings (if applicable) 5) Detailed Specifications, 6) Proposal Pages, 7) Certifications, and 8) Addenda Nos (none unless indicated here) \_\_\_\_\_, and affirms that the Joint Venture shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal, except only to the extent that the Joint Venture has taken express written exception thereto in the sections of this specification designated for that purpose

Under penalty of perjury, the undersigned (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line, (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line, and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other Bidder (proposer) or prospective Bidder (proposer) or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraining of free competition among Bidders (proposers) and has not disclosed to any person, firm or corporation the terms of this bid (proposal) or the price named herein

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

JOINT VENTURE NAME (Print or Type) \_\_\_\_\_

JOINT VENTURE ADDRESS (Print or Type) \_\_\_\_\_

If you are operating under an assumed name, provide County registration number herein under as provided in the Illinois Revised Statutes 1965 Chapter 96 Sec 4 et seq. Registration Number \_\_\_\_\_

SIGNATURES AND ADDRESSES OF ALL MEMBERS OF THE JOINT VENTURE (If all members of the Joint Venture do not sign, indicate authority of signatories by attaching copy of Joint Venture agreement or other authorizing document)

SIGNATURE OF Authorized Party (Signature) \_\_\_\_\_

TITLE OF SIGNATORY (Print or Type) \_\_\_\_\_

BUSINESS ADDRESS (Print or Type) \_\_\_\_\_

ATTEST (Joint Venture Secretary Signature) \_\_\_\_\_  
(Affix Joint Venture Seal)

OR  
Joint Venturer Signature (Signature) \_\_\_\_\_

Address (Print or Type) \_\_\_\_\_

Joint Venturer Signature (Signature) \_\_\_\_\_

Address (Print or Type) \_\_\_\_\_

Joint Venturer Signature (Signature) \_\_\_\_\_

Address (Print or Type) \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ as President (or other authorized officer) and \_\_\_\_\_ as Secretary of \_\_\_\_\_ (Corporation Name)

Notary Public Signature \_\_\_\_\_

Commission Expires \_\_\_\_\_ (Seal)

### 11.3. Bid Execution By A Partnership

The undersigned, hereby acknowledges having received Specification Number 82197E containing a full set of Contract Documents, including, but not limited to, 1) Requirements for Bidding and Instructions to Bidders, 2) Standard Terms and Conditions - General Conditions, 3) Special Conditions for Supply Contracts, 4) Contract Plans or Drawings (if applicable) 5) Detailed Specifications, 6) Proposal Pages, 7) Certifications, and 8) Addenda Nos. (none unless indicated here) \_\_\_\_\_, and affirms that the partnership shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal, except only to the extent that the partnership has taken express written exception thereto in the sections of this specification designated for that purpose

Under penalty of perjury, the undersigned (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line, (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line; and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in Circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other Bidder (proposer) or prospective Bidder (proposer) or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraining of free competition among Bidders (proposers) and has not disclosed to any person, firm or corporation the terms of this bid (proposal) or the price named herein

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected

BUSINESS NAME. (Print or Type) \_\_\_\_\_

BUSINESS ADDRESS (Print or Type) \_\_\_\_\_

If you are operating under an assumed name, provide County registration number herein under as provided in the Illinois Revised Statutes 1965 Chapter 96 Sec 4 et seq Registration Number \_\_\_\_\_

#### SIGNATURES AND ADDRESSES OF ALL MEMBERS OF THE PARTNERSHIP

(If all General Partners do not sign, indicate authority of partner signatories by attaching copy of partnership agreement or other authorizing document)

Partner Signature (Signature) \_\_\_\_\_

Address (Print or Type) \_\_\_\_\_

Partner Signature (Signature) \_\_\_\_\_

Address (Print or Type) \_\_\_\_\_

Partner Signature (Signature) \_\_\_\_\_

Address (Print or Type) \_\_\_\_\_

State of \_\_\_\_\_, County of \_\_\_\_\_

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ as President (or other authorized officer)

and \_\_\_\_\_ as Secretary of \_\_\_\_\_ (Corporation Name)

Notary Public Signature \_\_\_\_\_

Commission Expires \_\_\_\_\_

(Seal)

#### 11.4. Bid Execution By a Sole Proprietor

The undersigned, hereby acknowledges having received Specification Number 82197E containing a full set of Contract Documents, including, but not limited to, 1) Requirements for Bidding and Instructions to Bidders, 2) Standard Terms and Conditions - General Conditions, 3) Special Conditions for Supply Contracts, 4) Contract Plans or Drawings (if applicable) 5) Detailed Specifications, 6) Proposal Pages, 7) Certifications, and 8) Addenda Nos. (none unless indicated here) \_\_\_\_\_, and affirms that the sole proprietor shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal, except only to the extent that the sole proprietor has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line; (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line, and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in Circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other Bidder (proposer) or prospective Bidder (proposer) or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraining of free competition among Bidders (proposers) and has not disclosed to any person, firm or corporation the terms of this bid (proposal) or the price named herein.

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

SIGNATURE OF PROPRIETOR: \_\_\_\_\_  
(Signature)

DOING BUSINESS AS \_\_\_\_\_  
(Print or Type)

Business Address \_\_\_\_\_  
(Print or Type)  
\_\_\_\_\_  
(Print or Type)

If you are operating under an assumed name, provide County registration number herein under as provided in the Illinois Revised Statutes 1965 Chapter 96 Sec 4 et seq.

Registration Number \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_, County of \_\_\_\_\_

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ as President (or other authorized officer) and \_\_\_\_\_ as Secretary of \_\_\_\_\_ (Corporation Name) \_\_\_\_\_

Notary Public Signature \_\_\_\_\_

Commission Expires \_\_\_\_\_

(Seal)



## EXHIBITS

Exhibits follow this page. Remainder of page intentionally blank.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
05/12/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(res) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s)

<b>PRODUCER</b> MARSH USA, Inc 501 MERRITT 7 NORWALK, CT 06856-6010 Attn: Norwalk certrequest@Marsh.com Fax 212-948-0929  071217-NW-WUMB-14-15  <b>INSURED</b> NESTLE WATERS NORTH AMERICA, INC ATTN: RISK MANAGEMENT 800 N BRAND BOULEVARD GLENDALE, CA 91203	<b>CONTACT NAME</b> <b>PHONE</b> (A/C, No, Ext) <b>FAX</b> (A/C, No) <b>E-MAIL</b> <b>ADDRESS</b>
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A</b> ACE American Insurance Company <b>INSURER B</b> American Guarantee & Liability Ins Co <b>INSURER C</b> Indemnity Ins Co Of North America <b>INSURER D</b> <b>INSURER E</b> <b>INSURER F</b>

**COVERAGES****CERTIFICATE NUMBER:**

NYC-006864451-01

**REVISION NUMBER:** 2

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC		HDOG2732910A	01/01/2014	01/01/2015	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COM/OP AGG \$ 5,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS		ISAH08816001	01/01/2014	01/01/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE  DED RETENTION \$		AEC 3373846-11	01/01/2014	01/01/2015	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) if yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	WLRC47876084 (AOS) WLRC47876072 (AZ, CA & MA) SCFC47876096 (WI)	01/01/2014 01/01/2014 01/01/2014	01/01/2015 01/01/2015 01/01/2015	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E L EACH ACCIDENT \$ 1,000,000 E L DISEASE - EA EMPLOYEE \$ 1,000,000 E L DISEASE - POLICY LIMIT \$ 1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

THE CITY OF CHICAGO IS INCLUDED AS ADDITIONAL INSURED (EXCEPT WORKERS COMPENSATION) WHERE REQUIRED BY WRITTEN CONTRACT. WAIVER OF SUBROGATION IS APPLICABLE WHERE REQUIRED BY WRITTEN CONTRACT. THIS INSURANCE IS PRIMARY AND NON-CONTRIBUTORY OVER ANY EXISTING INSURANCE AND LIMITED TO LIABILITY ARISING OUT OF THE OPERATIONS OF THE NAMED INSURED AND WHERE REQUIRED BY WRITTEN CONTRACT.

**CERTIFICATE HOLDER**CITY OF CHICAGO  
ATTN: PROCUREMENT DEPARTMENT  
121 N LASALLE ST, #806  
CHICAGO, IL 60602**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS

AUTHORIZED REPRESENTATIVE  
of Marsh USA Inc

Kirsty A. Dreher



CONTRACT NO: 1430-14172

**EXHIBIT 3**

**Evidence of Insurance**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
02/05/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> MARSH USA, Inc. 501 MERRITT 7 NORWALK, CT 06856-6010 Attn: Norwalk.certrequest@Marsh.com Fax: 212-948-0929		<b>CONTACT NAME:</b> <b>PHONE (A/C, No, Ext):</b> <b>FAX (A/C, No):</b> <b>E-MAIL ADDRESS:</b>	
071217-NW-W/UMB-15-16		Strade	
<b>INSURED</b> NESTLE WATERS NORTH AMERICA, INC. ATTN: RISK MANAGEMENT 800 N. BRAND BOULEVARD GLENDALE, CA 91203		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> ACE American Insurance Company <b>INSURER B:</b> American Guarantee & Liability Ins Co <b>INSURER C:</b> Indemnity Ins Co Of North America <b>INSURER D:</b> ACE Fire Underwriters Co <b>INSURER E:</b> <b>INSURER F:</b>	
		<b>NAIC #</b> 22667 26247 43575 20702	

## COVERAGES

CERTIFICATE NUMBER:

NYC-006066249-24

REVISION NUMBER: 6

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		HDO G2734057A	01/01/2015	01/01/2016	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 5,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS		ISA H08830678	01/01/2015	01/01/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$		AEC 3373846-12	01/01/2015	01/01/2016	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) if yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	WLRC48141055 (AOS) WLRC48141067 (CA & MA) SCFC48141079 (WI)	01/01/2015 01/01/2015 01/01/2015	01/01/2016 01/01/2016 01/01/2016	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

## DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Public Building Commission of Chicago, MB Real Estate Service Inc and Cook County, its officials, employees and agents are included as Additional Insured (except Workers Compensation) where required by written contract. This insurance is primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured and where required by written contract.

## CERTIFICATE HOLDER

MB Real Estate Service Inc.  
1203 Richard J. Daley Center  
50 West Washington Street  
Chicago, IL 60602

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE  
of Marsh USA Inc.

Marie Massello

*Marie Massello*

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**ECONOMIC DISCLOSURE STATEMENT  
AND EXECUTION DOCUMENT  
INDEX**

<b>Section</b>	<b>Description</b>	<b>Pages</b>
Instructions	Instructions for Completion of EDS	EDS i - ii
1	MBE/WBE Utilization Plan	EDS 1
2	Letter of Intent	EDS 2
3	Petition for Reduction/Waiver of MBE/WBE Participation Goals	EDS 3
4	Certifications	EDS 4, 5
5	Economic and Other Disclosures, Affidavit of Child Support Obligations and Disclosure of Ownership Interest	EDS 6 – 12
6	Sole Proprietor Signature Page	EDS 13a/b/c
7	Partnership Signature Page	EDS 14/a/b/c
8	Limited Liability Corporation Signature Page	EDS 15a/b/c
9	Corporation Signature Page	EDS 16a/b/c
10	Cook County Signature Page	EDS 17

**INSTRUCTIONS FOR COMPLETION OF  
ECONOMIC DISCLOSURE STATEMENT AND EXECUTION DOCUMENT**

This Economic Disclosure Statement and Execution Document ("EDS") is to be completed and executed by every Bidder on a County contract, every party responding to a Request for Proposals or Request for Qualifications ("Proposer"), and others as required by the Chief Procurement Officer. If the Undersigned is awarded a contract pursuant to the procurement process for which this EDS was submitted (the "Contract"), this Economic Disclosure Statement and Execution Document shall stand as the Undersigned's execution of the Contract.

**Definitions.** Capitalized terms used in this EDS and not otherwise defined herein shall have the meanings given to such terms in the Instructions to Bidders, General Conditions, Request for Proposals, Request for Qualifications, or other documents, as applicable.

**"Affiliated Entity"** means a person or entity that, directly or indirectly: controls the Bidder, is controlled by the Bidder, or is, with the Bidder, under common control of another person or entity. Indicia of control include, without limitation, interlocking management or ownership; identity of interests among family members; shared facilities and equipment; common use of employees; and organization of a business entity following the ineligibility of a business entity to do business with the County under the standards set forth in the Certifications included in this EDS, using substantially the same management, ownership or principals as the ineligible entity.

**"Bidder," "Proposer," "Undersigned," or "Applicant,"** is the person or entity executing this EDS. Upon award and execution of a Contract by the County, the Bidder, Proposer, Undersigned or Applicant, as the case may be, shall become the Contractor or Contracting Party.

**"Proposal,"** for purposes of this EDS, is the Undersigned's complete response to an RFP/RFQ, or if no RFQ/RFP was issued by the County, the "Proposal" is such other proposal, quote or offer submitted by the Undersigned, and in any event a "Proposal" includes this EDS.

**"Code"** means the Code of Ordinances, Cook County, Illinois available through the Cook County Clerk's Office website (<http://www.cookctyclerk.com/sub/ordinances.asp>). This page can also be accessed by going to [www.cookctyclerk.com](http://www.cookctyclerk.com), clicking on the tab labeled "County Board Proceedings," and then clicking on the link to "Cook County Ordinances."

**"Contractor" or "Contracting Party"** means the Bidder, Proposer or Applicant with whom the County has entered into a Contract.

**"EDS"** means this complete Economic Disclosure Statement and Execution Document, including all sections listed in the Index and any attachments.

**"Lobby" or "lobbying"** means to, for compensation, attempt to influence a County official or County employee with respect to any County matter.

**"Lobbyist"** means any person or entity who lobbies.

**"Prohibited Acts"** means any of the actions or occurrences which form the basis for disqualification under the Code, or under the Certifications hereinafter set forth.

**Sections 1 through 3: MBE/WBE Documentation.** Sections 1 and 2 must be completed in order to satisfy the requirements of the County's MBE/WBE Ordinance, as set forth in the Contract Documents, if applicable. If the Undersigned believes a waiver is appropriate and necessary, Section 3, the Petition for Waiver of MBE/WBE Participation must be completed.

**Section 4: Certifications.** Section 4 sets forth certifications that are required for contracting parties under the Code. Execution of this EDS constitutes a warranty that all the statements and certifications contained, and all the facts stated, in the Certifications are true, correct and complete as of the date of execution.

**Section 5: Economic and Other Disclosures Statement.** Section 5 is the County's required Economic and Other Disclosures Statement form. Execution of this EDS constitutes a warranty that all the information provided in the EDS is true, correct and complete as of the date of execution, and binds the Undersigned to the warranties, representations, agreements and acknowledgements contained therein.

**INSTRUCTIONS FOR COMPLETION OF  
ECONOMIC DISCLOSURE STATEMENT AND EXECUTION DOCUMENT**

**Sections 6, 7, 8, 9: Execution Forms.** The Bidder executes this EDS, and the Contract, by completing and signing three copies of the appropriate Signature Page. Section 6 is the form for a sole proprietor; Section 7 is the form for a partnership or joint venture; Section 8 is the form for a Limited Liability Corporation, and Section 9 is the form for a corporation. Proper execution requires **THREE ORIGINALS**; therefore, the appropriate Signature Page must be filled in, three copies made, and all three copies must be properly signed, notarized and submitted. The forms may be printed and completed by typing or hand writing the information required.

**Required Updates.** The information provided in this EDS will be kept current. In the event of any change in any information provided, including but not limited to any change which would render inaccurate or incomplete any certification or statement made in this EDS, the Undersigned will supplement this EDS up to the time the County takes action, by filing an amended EDS or such other documentation as is requested.

**Additional Information.** The County's Governmental Ethics and Campaign Financing Ordinances, impose certain duties and obligations on persons or entities seeking County contracts, work, business, or transactions. For further information please contact the Director of Ethics at (312) 603-4304 (69 W. Washington St. Suite 3040, Chicago, IL 60602) or visit our web-site at [www.cookcountygov.com](http://www.cookcountygov.com) and go to the Ethics Department link. The Bidder must comply fully with the applicable ordinances.

**MBE/WBE UTILIZATION PLAN (SECTION 1)**

BIDDER/PROPOSER HEREBY STATES that all MBE/WBE firms included in this Plan are certified MBEs/WBEs by at least one of the entities listed in the General Conditions.

**I. BIDDER/PROPOSER MBE/WBE STATUS: (check the appropriate line)**

- ☐ Bidder/Proposer is a certified MBE or WBE firm. (If so, attach copy of appropriate Letter of Certification)
- ☐ Bidder/Proposer is a Joint Venture and one or more Joint Venture partners are certified MBEs or WBEs. (If so, attach copies of Letter(s) of Certification, a copy of Joint Venture Agreement clearly describing the role of the MBE/WBE firm(s) and its ownership interest in the Joint Venture and a completed Joint Venture Affidavit - available from the Office of Contract Compliance)
- ☐ Bidder/Proposer is not a certified MBE or WBE firm, nor a Joint Venture with MBE/WBE partners, but will utilize MBE and WBE firms either directly or indirectly in the performance of the Contract. (If so, complete Sections II and III).

**II. ☐ Direct Participation of MBE/WBE Firms ☐ Indirect Participation of MBE/WBE Firms**

Where goals have not been achieved through direct participation, Bidder/Proposer shall include documentation outlining efforts to achieve Direct Participation at the time of Bid/Proposal submission. Indirect Participation will only be considered after all efforts to achieve Direct Participation have been exhausted. Only after written documentation of Good Faith Efforts is received will Indirect Participation be considered.

MBEs/WBEs that will perform as subcontractors/suppliers/consultants include the following:

MBE/WBE Firm: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Dollar Amount Participation: \$ \_\_\_\_\_

Percent Amount of Participation: \_\_\_\_\_ %

\*Letter of Intent attached? Yes \_\_\_\_\_ No \_\_\_\_\_

\*Letter of Certification attached? Yes \_\_\_\_\_ No \_\_\_\_\_

MBE/WBE Firm: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Dollar Amount Participation: \$ \_\_\_\_\_

Percent Amount of Participation: \_\_\_\_\_ %

\*Letter of Intent attached? Yes \_\_\_\_\_ No \_\_\_\_\_

\*Letter of Certification attached? Yes \_\_\_\_\_ No \_\_\_\_\_

Attach additional sheets as needed.

**\*Additionally, all Letters of Intent, Letters of Certification and documentation of Good Faith Efforts omitted from this bid/proposal must be submitted to the Office of Contract Compliance so as to assure receipt by the Contract Compliance Administrator not later than three (3) business days after the Bid Opening date.**

**COOK COUNTY GOVERNMENT LETTER OF INTENT (SECTION 2)**

M/WBE Firm: \_\_\_\_\_

Certifying Agency: \_\_\_\_\_

Address: \_\_\_\_\_

Certification Expiration Date: \_\_\_\_\_

City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

FEIN #: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Email: \_\_\_\_\_

Contract #: \_\_\_\_\_

Participation: ☐ Direct ☐ Indirect

Will the M/WBE firm be subcontracting any of the performance of this contract to another firm?

☐ No ☐ Yes - Please attach explanation.

Proposed Subcontractor: \_\_\_\_\_

The undersigned M/WBE is prepared to provide the following Commodities/Services for the above named Project/ Contract:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Indicate the Dollar Amount, or Percentage, and the Terms of Payment for the above-described Commodities/ Services:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(If more space is needed to fully describe M/WBE Firm's proposed scope of work and/or payment schedule, attach additional sheets)*

THE UNDERSIGNED PARTIES AGREE that this Letter of Intent will become a binding Subcontract Agreement conditioned upon the Bidder/Proposer's receipt of a signed contract from the County of Cook. The Undersigned Parties do also certify that they did not affix their signatures to this document until all areas under Description of Service/ Supply and Fee/Cost were completed.

Signature (M/WBE) \_\_\_\_\_

Signature (Prime Bidder/Proposer) \_\_\_\_\_

Print Name \_\_\_\_\_

Print Name \_\_\_\_\_

Firm Name \_\_\_\_\_

Firm Name \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Subscribed and sworn before me

Subscribed and sworn before me

this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Notary Public \_\_\_\_\_

Notary Public \_\_\_\_\_

SEAL

SEAL

**PETITION FOR WAIVER OF MBE/WBE PARTICIPATION (SECTION 3)**

**A. BIDDER/PROPOSER HEREBY REQUESTS:**



FULL MBE WAIVER



FULL WBE WAIVER



REDUCTION (PARTIAL MBE and/or WBE PARTICIPATION)

\_\_\_\_\_ % of Reduction for MBE Participation

\_\_\_\_\_ % of Reduction for WBE Participation

**B. REASON FOR FULL/REDUCTION WAIVER REQUEST**

Bidder/Proposer shall check each item applicable to its reason for a waiver request. Additionally, supporting documentation shall be submitted with this request. If such supporting documentation cannot be submitted with bid/proposal/quotation, such documentation shall be submitted directly to the Office of Contract Compliance no later than three (3) days from the date of submission date.



(1) Lack of sufficient qualified MBEs and/or WBEs capable of providing the goods or services required by the contract. (Please explain) *All products ARE produce FROM NEHE WATERS NORTH AMERICA*



(2) The specifications and necessary requirements for performing the contract make it impossible or economically infeasible to divide the contract to enable the contractor to utilize MBEs and/or WBEs in accordance with the applicable participation. (Please explain)



(3) Price(s) quoted by potential MBEs and/or WBEs are above competitive levels and increase cost of doing business and would make acceptance of such MBE and/or WBE bid economically impracticable, taking into consideration the percentage of total contract price represented by such MBE and/or WBE bid. (Please explain)



(4) There are other relevant factors making it impossible or economically infeasible to utilize MBE and/or WBE firms. (Please explain)

**C. GOOD FAITH EFFORTS TO OBTAIN MBE/WBE PARTICIPATION**



(1) Made timely written solicitation to identified MBEs and WBEs for utilization of goods and/or services; and provided MBEs and WBEs with a timely opportunity to review and obtain relevant specifications, terms and conditions of the proposal to enable MBEs and WBEs to prepare an informed response to solicitation. (Please attach)



(2) Followed up initial solicitation of MBEs and WBEs to determine if firms are interested in doing business. (Please attach)



(3) Advertised in a timely manner in one or more daily newspapers and/or trade publication for MBEs and WBEs for supply of goods and services. (Please attach)



(4) Used the services and assistance of the Office of Contract Compliance staff. (Please explain)



(5) Engaged MBEs & WBEs for indirect participation. (Please explain)

**D. OTHER RELEVANT INFORMATION**

Attach any other documentation relative to Good Faith Efforts in complying with MBE/WBE participation.



#### **CERTIFICATIONS (SECTION 4)**

THE FOLLOWING CERTIFICATIONS ARE MADE PURSUANT TO STATE LAW AND THE CODE. THE UNDERSIGNED IS CAUTIONED TO CAREFULLY READ THESE CERTIFICATIONS PRIOR TO SIGNING THE SIGNATURE PAGE. SIGNING THE SIGNATURE PAGE SHALL CONSTITUTE A WARRANTY BY THE UNDERSIGNED THAT ALL THE STATEMENTS, CERTIFICATIONS AND INFORMATION SET FORTH WITHIN THESE CERTIFICATIONS ARE TRUE, COMPLETE AND CORRECT AS OF THE DATE THE SIGNATURE PAGE IS SIGNED. THE UNDERSIGNED IS NOTIFIED THAT IF THE COUNTY LEARNS THAT ANY OF THE FOLLOWING CERTIFICATIONS WERE FALSELY MADE, THAT ANY CONTRACT ENTERED INTO WITH THE UNDERSIGNED SHALL BE SUBJECT TO TERMINATION.

##### **A. PERSONS AND ENTITIES SUBJECT TO DISQUALIFICATION**

No person or business entity shall be awarded a contract or sub-contract, for a period of five (5) years from the date of conviction or entry of a plea or admission of guilt, civil or criminal, if that person or business entity:

- 1) Has been convicted of an act committed, within the State of Illinois, of bribery or attempting to bribe an officer or employee of a unit of state, federal or local government or school district in the State of Illinois in that officer's or employee's official capacity;
- 2) Has been convicted by federal, state or local government of an act of bid-rigging or attempting to rig bids as defined in the Sherman Anti-Trust Act and Clayton Act. Act. 15 U.S.C. Section 1 *et seq.*;
- 3) Has been convicted of bid-rigging or attempting to rig bids under the laws of federal, state or local government;
- 4) Has been convicted of an act committed, within the State, of price-fixing or attempting to fix prices as defined by the Sherman Anti-Trust Act and the Clayton Act. 15 U.S.C. Section 1, *et seq.*;
- 5) Has been convicted of price-fixing or attempting to fix prices under the laws the State;
- 6) Has been convicted of defrauding or attempting to defraud any unit of state or local government or school district within the State of Illinois;
- 7) Has made an admission of guilt of such conduct as set forth in subsections (1) through (6) above which admission is a matter of record, whether or not such person or business entity was subject to prosecution for the offense or offenses admitted to; or
- 8) Has entered a plea of *nolo contendere* to charge of bribery, price-fixing, bid-rigging, or fraud, as set forth in sub-paragraphs (1) through (6) above.

In the case of bribery or attempting to bribe, a business entity may not be awarded a contract if an official, agent or employee of such business entity committed the Prohibited Act on behalf of the business entity and pursuant to the direction or authorization of an officer, director or other responsible official of the business entity, and such Prohibited Act occurred within three years prior to the award of the contract. In addition, a business entity shall be disqualified if an owner, partner or shareholder controlling, directly or indirectly, 20 % or more of the business entity, or an officer of the business entity has performed any Prohibited Act within five years prior to the award of the Contract.

**THE UNDERSIGNED HEREBY CERTIFIES THAT:** The Undersigned has read the provisions of Section A, Persons and Entities Subject to Disqualification, that the Undersigned has not committed any Prohibited Act set forth in Section A, and that award of the Contract to the Undersigned would not violate the provisions of such Section or of the Code.

##### **B. BID-RIGGING OR BID ROTATING**

**THE UNDERSIGNED HEREBY CERTIFIES THAT:** *In accordance with 720 ILCS 5/33 E-11, neither the Undersigned nor any Affiliated Entity is barred from award of this Contract as a result of a conviction for the violation of State laws prohibiting bid-rigging or bid rotating.*

##### **C. DRUG FREE WORKPLACE ACT**

**THE UNDERSIGNED HEREBY CERTIFIES THAT:** The Undersigned will provide a drug free workplace, as required by Public Act 86-1459 (30 ILCS 580/2-11).

**D. DELINQUENCY IN PAYMENT OF TAXES**

**THE UNDERSIGNED HEREBY CERTIFIES THAT:** *The Undersigned is not an owner or a party responsible for the payment of any tax or fee administered by Cook County, by a local municipality, or by the Illinois Department of Revenue, which such tax or fee is delinquent, such as bar award of a contract or subcontract pursuant to the Code, Chapter 34, Section 34-129.*

**E. HUMAN RIGHTS ORDINANCE**

No person who is a party to a contract with Cook County ("County") shall engage in unlawful discrimination or sexual harassment against any individual in the terms or conditions of employment, credit, public accommodations, housing, or provision of County facilities, services or programs (Code Chapter 42, Section 42-30 *et seq.*).

**F. ILLINOIS HUMAN RIGHTS ACT**

**THE UNDERSIGNED HEREBY CERTIFIES THAT:** *It is in compliance with the the Illinois Human Rights Act (775 ILCS 5/2-105), and agrees to abide by the requirements of the Act as part of its contractual obligations.*

**G. MACBRIDE PRINCIPLES, CODE CHAPTER 34, SECTION 34-132**

If the primary contractor currently conducts business operations in Northern Ireland, or will conduct business during the projected duration of a County contract, the primary contractor shall make all reasonable and good faith efforts to conduct any such business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390.

**H. LIVING WAGE ORDINANCE PREFERENCE (COOK COUNTY CODE, CHAPTER 34, SECTION 34-127;**

The Code requires that a living wage must be paid to individuals employed by a Contractor which has a County Contract and by all subcontractors of such Contractor under a County Contract, throughout the duration of such County Contract. The amount of such living wage is determined from time to time by, and is available from, the Chief Financial Officer of the County.

For purposes of this EDS Section 4, H, "Contract" means any written agreement whereby the County is committed to or does expend funds in connection with the agreement or subcontract thereof. The term "Contract" as used in this EDS, Section 4, I, specifically excludes contracts with the following:

- 1) Not-For Profit Organizations (defined as a corporation having tax exempt status under Section 501(C)(3) of the United State Internal Revenue Code and recognized under the Illinois State not-for-profit law);
- 2) Community Development Block Grants;
- 3) Cook County Works Department;
- 4) Sheriff's Work Alternative Program; and
- 5) Department of Correction inmates.

**REQUIRED DISCLOSURES (SECTION 5)**

**1. DISCLOSURE OF LOBBYIST CONTACTS**

List all persons or entities that have made lobbying contacts on your behalf with respect to this contract:

Name

Address

N/A

**2. LOCAL BUSINESS PREFERENCE DISCLOSURE; CODE, CHAPTER 34, SECTION 34-151(p);**

"Local Business" shall mean a person authorized to transact business in this State and having a bona fide establishment for transacting business located within Cook County at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced and further which employs the majority of its regular, full time work force within Cook County, including a foreign corporation duly authorized to transact business in this State and which has a bona fide establishment for transacting business located within Cook County at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced and further which employs the majority of its regular, full time work force within Cook County.

- a) Is Bidder a "Local Business" as defined above?

Yes: X No: \_\_\_\_\_

- b) If yes, list business addresses within Cook County:

4400 S. KOLMAR AVE CHICAGO IL 60632

310 Huehl Road, NORTH BROOK, IL 60062

- c) Does Bidder employ the majority of its regular full-time workforce within Cook County?

Yes: \_\_\_\_\_ No: X

**3. THE CHILD SUPPORT ENFORCEMENT ORDINANCE (PREFERENCE (CODE, CHAPTER 34, SECTION 34-366))**

Every Applicant for a County Privilege shall be in full compliance with any child support order before such Applicant is entitled to receive or renew a County Privilege. When delinquent child support exists, the County shall not issue or renew any County Privilege, and may revoke any County Privilege.

All Applicants are required to review the Cook County Affidavit of Child Support Obligations attached to this EDS (EDS-8) and complete the following, based upon the definitions and other information included in such Affidavit.

**4. REAL ESTATE OWNERSHIP DISCLOSURES.**

The Undersigned must indicate by checking the appropriate provision below and providing all required information that either:

- a) ☐ The following is a complete list of all real estate owned by the Undersigned in Cook County:

PERMANENT INDEX NUMBER(S):

N/A

(ATTACH SHEET IF NECESSARY TO LIST ADDITIONAL INDEX NUMBERS)

OR:

- b) ☒ The Undersigned owns no real estate in Cook County.

**5. EXCEPTIONS TO CERTIFICATIONS OR DISCLOSURES.**

If the Undersigned is unable to certify to any of the Certifications or any other statements contained in this EDS and not explained elsewhere in this EDS, the Undersigned must explain below:

\_\_\_\_\_  
\_\_\_\_\_  
If the letters, "NA", the word "None" or "No Response" appears above, or if the space is left blank, it will be conclusively presumed that the Undersigned certified to all Certifications and other statements contained in this EDS.

## COOK COUNTY DISCLOSURE OF OWNERSHIP INTEREST STATEMENT

The Cook County Code of Ordinances (§2-610 *et seq.*) requires that any Applicant for any County Action must disclose information concerning ownership interests in the Applicant. This Disclosure of Ownership Interest Statement must be completed with all information current as of the date this Statement is signed. Furthermore, this Statement must be kept current, by filing an amended Statement, until such time as the County Board or County Agency shall take action on the application. The information contained in this Statement will be maintained in a database and made available for public viewing.

If you are asked to list names, but there are no applicable names to list, you must state NONE. An incomplete Statement will be returned and any action regarding this contract will be delayed. A failure to fully comply with the ordinance may result in the action taken by the County Board or County Agency being voided.

"Applicant" means any Entity or person making an application to the County for any County Action.

"County Action" means any action by a County Agency, a County Department, or the County Board regarding an ordinance or ordinance amendment, a County Board approval, or other County agency approval, with respect to contracts, leases, or sale or purchase of real estate.

"Entity" or "Legal Entity" means a sole proprietorship, corporation, partnership, association, business trust, estate, two or more persons having a joint or common interest, trustee of a land trust, other commercial or legal entity or any beneficiary or beneficiaries thereof.

This Disclosure of Ownership Interest Statement must be submitted by:

1. An Applicant for County Action and
2. An individual or Legal Entity that holds stock or a beneficial interest in the Applicant and is listed on the Applicant's Statement (a "Holder") must file a Statement and complete #1 only under **Ownership Interest Declaration**.

Please print or type responses clearly and legibly. Add additional pages if needed, being careful to identify each portion of the form to which each additional page refers.

This Statement is being made by the ☒ Applicant or ☐ Stock/Beneficial Interest Holder

This Statement is an: ☒ Original Statement or ☐ Amended Statement

### Identifying Information:

Name: Nestle Waters North America Inc. EIN NO.: 94-302737

Street Address: 900 Long Ridge Rd Bldg 2

City: Stamford State: CT Zip Code: 06902

Phone No.: 203-531-4100

### Form of Legal Entity:

☐ Sole Proprietor ☐ Partnership ☒ Corporation ☐ Trustee of Land Trust

☐ Business Trust ☐ Estate ☐ Association ☐ Joint Venture

☐ Other (describe) \_\_\_\_\_

**Ownership Interest Declaration:**

1. List the name(s), address, and percent ownership of each individual and each Entity having a legal or beneficial interest (including ownership) of more than five percent (5%) in the Applicant/Holder.

Name	Address	Percentage Interest in Applicant/Holder
Nestle Waters North America Holdings, Inc.	900 Long Ridge Rd, Bldg 2 Stamford, CT 06902	100%

2. If the interest of any individual or any Entity listed in (1) above is held as an agent or agents, or a nominee or nominees, list the name and address of the principal on whose behalf the interest is held.


Name of Agent/Nominee	Name of Principal	Principal's Address
	N/A	

3. Is the Applicant constructively controlled by another person or Legal Entity? [ ] Yes [ ☒ ] No  
If yes, state the name, address and percentage of beneficial interest of such person or legal entity, and the relationship under which such control is being or may be exercised.

Name	Address	Percentage of Beneficial Interest	Relationship
	N/A		

**Declaration (check the applicable box):**

- ☒ I state under oath that the Applicant has withheld no disclosure as to ownership interest in the Applicant nor reserved any information, data or plan as to the intended use or purpose for which the Applicant seeks County Board or other County Agency action.
- [ ] I state under oath that the Holder has withheld no disclosure as to ownership interest nor reserved any information required to be disclosed.

Robert Mason  
Name of Authorized Applicant/Holder Representative (please print or type)  
  
Signature  
ROBERT.MASON@WATERS.NESTLE.COM  
E-mail address

VP Operations  
Title  
12/1/14  
Date  
203-531-4100  
Phone Number

Subscribed to and sworn before me  
this 1st day of DEC, 2014

x   
Notary Public Signature

My commission expires:

ALDA BRACCIA  
NOTARY PUBLIC  
CONNECTICUT  
MY COMMISSION EXPIRES 12/31/2015  
12/31/2015



## COOK COUNTY BOARD OF ETHICS

69 W. WASHINGTON STREET, SUITE 3040

CHICAGO, ILLINOIS 60602

312/603-4304

312/603-9988 FAX 312/603-1011 TT/TDD

### **FAMILIAL RELATIONSHIP DISCLOSURE PROVISION:**

Section 2-582 of the Cook County Ethics Ordinance requires any person or persons doing business with Cook County, upon execution of a contract with Cook County, to disclose to the Cook County Board of Ethics the existence of familial relationships they may have with all persons holding elective office in the State of Illinois, the County of Cook, or in any municipality within the County of Cook.

The disclosure required by this section shall be filed by January 1 of each calendar year or within thirty (30) days of the execution of any contract or lease. Any person filing a late disclosure statement after January 31 shall be assessed a late filing fee of \$100.00 per day that the disclosure is late. Any person found guilty of violating any provision of this section or knowingly filing a false, misleading, or incomplete disclosure to the Cook County Board of Ethics shall be prohibited, for a period of three (3) years, from engaging, directly or indirectly, in any business with Cook County. *Note:* Please see Chapter 2 Administration, Article VII Ethics, Section 2-582 of the Cook County Code to view the full provisions of this section.

If you have questions concerning this disclosure requirement, please call the Cook County Board of Ethics at (312) 603-4304.

*Note:* A current list of contractors doing business with Cook County is available via the Cook County Board of Ethics' website at:

[http://www.cookcountygov.com/taxonomy/ethics/Listings/cc\\_ethics\\_VendorList\\_.pdf](http://www.cookcountygov.com/taxonomy/ethics/Listings/cc_ethics_VendorList_.pdf)

### **DEFINITIONS:**

*"Calendar year"* means January 1 to December 31 of each year.

*"Doing business"* for this Ordinance provision means any one or any combination of leases, contracts, or purchases to or with Cook County or any Cook County agency in excess of \$25,000 in any calendar year.

*"Familial relationship"* means a person who is related to an official or employee as spouse or any of the following, whether by blood, marriage or adoption:

- |           |                   |                |
|-----------|-------------------|----------------|
| ▪ Parent  | ▪ Grandparent     | ▪ Stepfather   |
| ▪ Child   | ▪ Grandchild      | ▪ Stepmother   |
| ▪ Brother | ▪ Father-in-law   | ▪ Stepson      |
| ▪ Sister  | ▪ Mother-in-law   | ▪ Stepdaughter |
| ▪ Aunt    | ▪ Son-in-law      | ▪ Stepbrother  |
| ▪ Uncle   | ▪ Daughter-in-law | ▪ Stepsister   |
| ▪ Niece   | ▪ Brother-in-law  | ▪ Half-brother |
| ▪ Nephew  | ▪ Sister-in-law   | ▪ Half-sister  |

*"Person"* means any individual, entity, corporation, partnership, firm, association, union, trust, estate, as well as any parent or subsidiary of any of the foregoing, and whether or not operated for profit.

**SWORN FAMILIAL RELATIONSHIP DISCLOSURE FORM**

Pursuant to Section 2-582 of the Cook County Ethics Ordinance, any *person\* doing business\** with Cook County must disclose, to the Cook County Board of Ethics, the existence of *familial relationships\** to any person holding elective office in the State of Illinois, Cook County, or in any municipality within Cook County. Please print your responses.

Name of Owner/Employee: Tom Flash Title: Key Account Developer Mgr

Business Entity Name: N/A Phone: N/A

Business Entity Address: 4400 S. Kolmar Ave. Chicago, IL 60632

\_\_\_\_\_ The following familial relationship exists between the owner or any employee of the business entity contracted to do business with Cook County *and* any person holding elective office in the State of Illinois, Cook County, or in any municipality within Cook County.

Owner/Employee Name:	Related to:	Relationship:
1. _____	_____	_____
2. _____	_____	_____
3. <u>N/A</u>	<u>N/A</u>	<u>N/A</u>
4. _____	_____	_____
5. _____	_____	_____

If more space is needed, attach an additional sheet following the above format.

☒ There is *no* familial relationship that exists between the owner or any employee of the business entity contracted to do business with Cook County and any person holding elective office in the State of Illinois, Cook County, or in any municipality within Cook County.

To the best of my knowledge and belief, the information provided above is true and complete.

Robt M...  
Owner/Employee's Signature

12/1/14  
Date

Subscribe and sworn before me this 1st Day of December, 20 14

a Notary Public in and for Fairfield County

Alida Braccia  
(Signature)

NOTARY PUBLIC  
SEAL

ALDA BRACCIA  
NOTARY PUBLIC  
CONNECTICUT  
MY COMMISSION EXPIRES 12/31/2015  
My Commission expires \_\_\_\_\_

Completed forms must be filed within 30 days of the execution of any contract or lease with Cook County and should be mailed to:

Cook County Board of Ethics  
69 West Washington Street,  
Suite 3040  
Chicago, Illinois 60602



**Nestlé Waters North America Inc.**  
**900 Long Ridge Road, Building 2**  
**Stamford, Connecticut 06902**

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I, Judith J. Steckler, Assistant Secretary of Nestlé Waters North America Inc. (the "Corporation") hereby certify that, effective the 1<sup>st</sup> day of October, 2013, the Board of Directors of the Corporation, by written consent in lieu of meeting, adopted the following resolution:

"RESOLVED, without limitation of the authority given by the By-Laws of the Corporation or any other resolution of this Board of Directors, this resolution hereby confirms and reconfirms the authority of any of the following individuals named below of the Corporation to sign any contract, agreement, document, certification, application, bid form, or other document binding on the Corporation related to the home and office division's bid materials ("bid documentary material") without the further approval or authorization by the Board of Directors or otherwise; this authorization to remain effective until revoked by the Board and further provided that any party may rely on this resolution or a certified copy thereof as to the foregoing authority of the below named individuals to the same extent as if such the party had in hand a certified copy of a then current resolution specifically authorizing the below named individuals to authorize or execute such documentary material on behalf of the Corporation, it being further voted that all documentary material previously executed by such officer is hereby approved, reapproved and confirmed:

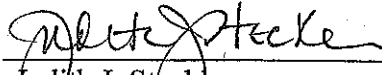
Bob Mason, Vice President."

This resolution remains in full force and effect.

Pursuant to this resolution, on December 1, 2014, Bob Mason, Vice President for the Corporation, executed, on behalf of the Corporation, certain Cook County contract documents for submission to Cook County.

In witness whereof, I hereunto set my hand and the seal of the Corporation this 1st day of December, 2014.

NESTLÉ WATERS NORTH AMERICA INC.

By   
\_\_\_\_\_  
Judith J. Steckler  
Assistant Secretary  
Nestlé Waters North America Inc.

**SIGNATURE BY A CORPORATION**  
**(SECTION 9)**

The Undersigned hereby certifies and warrants: that all of the statements, certifications, and representations set forth in this EDS are true, complete and correct; that the Undersigned is in full compliance and will continue to be in compliance throughout the term of the Contract or County Privilege issued to the Undersigned with all the policies and requirements set forth in this EDS; and that all of the facts and information provided by the Undersigned in this EDS are true, complete and correct. The Undersigned agrees to inform the Chief Procurement Officer in writing if any of such statements, certifications, representations, facts or information becomes or is found to be untrue, incomplete or incorrect during the term of the Contract or County Privilege.

BUSINESS NAME: Nestle Waters North America Inc.

BUSINESS ADDRESS: 900 Long Ridge Rd, Bldg 2  
Stamford, CT 06902

BUSINESS TELEPHONE: 203-531-4100 FAX NUMBER:                     

CONTACT PERSON: Tom FLASH

FEIN: 94-3027237 \*IL CORPORATE FILE NUMBER:                     

**LIST THE FOLLOWING CORPORATE OFFICERS:**

PRESIDENT: Tim Brown

VICE PRESIDENT: Robert Mason

SECRETARY: Charles Broll

TREASURER: William Pearson

\*\*SIGNATURE OF PRESIDENT: Tim Brown

ATTEST: Judith J Stecker (CORPORATE SECRETARY)  
Judith J Stecker Assistant

Subscribed and sworn to before me this

1st day of Dec, 2014

X Alba Braccia  
(Notary Public Signature)

My commission expires: ALBA BRACCIA  
NOTARY PUBLIC  
CONNECTICUT

MY COMMISSION EXPIRES 12/31/15

\* If the corporation is not registered in the State of Illinois, a copy of the Certificate of Good Standing from the state of incorporation must be submitted with this Signature Page.

\*\* In the event that this Signature Page is signed by any persons than the President and Secretary, attach either a certified copy of the corporate by-laws, resolution or other authorization by the corporation, authorizing such persons to sign the Signature Page on behalf of the corporation.

COOK COUNTY SIGNATURE PAGE  
(SECTION 10)

ON BEHALF OF THE COUNTY OF COOK, A BODY POLITIC AND CORPORATE OF THE STATE OF ILLINOIS, THIS  
CONTRACT IS HEREBY EXECUTED BY:

John G. M.

COOK COUNTY CHIEF PROCUREMENT OFFICER

DATED AT CHICAGO, ILLINOIS THIS 11 DAY OF February, 2015

IN THE CASE OF A BID PROPOSAL, THE COUNTY HEREBY ACCEPTS:

THE FOREGOING BID/PROPOSAL AS IDENTIFIED IN THE CONTRACT DOCUMENTS FOR CONTRACT NUMBER

1430-14172

OR

ITEM(S), SECTION(S), PART(S): \_\_\_\_\_

TOTAL AMOUNT OF CONTRACT: \$ 105,255.30  
(DOLLARS AND CENTS)

FUND CHARGEABLE: \_\_\_\_\_

APPROVED AS TO FORM:

Not Required

ASSISTANT STATE'S ATTORNEY  
(Required on contracts over \$1,000,000.00)